

BOARD of SUPERVISORS



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February 6, 2018

File Nos. 180114 and 180115

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On January 30, 2018, Supervisor Kim introduced the following proposed legislations:

File No. 180114

Ordinance amending the Planning Code to authorize a height limit exception for the San Francisco Conservatory of Music Project at 200-214 Van Ness Avenue for an additional building envelope that will be used to enclose or screen specified features from view, allow increased roof height for performance and common space, and provide additional visual interest to the roof of the structure; amending the Zoning Map to change the height designation of Assessor's Parcel Block No. 811, Lot Nos. 10 and 12, from 96-X to 120-X; affirming the Planning Commission'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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

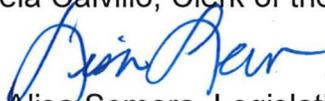
File No. 180115

Ordinance approving a Development Agreement between the City and County of San Francisco and San Francisco Conservatory of Music, a California non-profit public benefit corporation, for the project at 200-214 Van Ness Avenue between Hayes Street and the Dr. Tom Waddell Place mid-block alley, with various public benefits including creation of student housing, faculty housing, a new performance venue in the Civic Center cultural area, activation of a neglected portion of Van Ness Avenue, one-

for-one on-site replacement of 27 existing dwelling units with a specific Replacement and Interim Housing Program for existing tenants, including the clear right to return to a comparable unit and an interim relocation housing assistance, voluntary application of rent control and waiving rights under the Ellis Act; making findings under the California Environmental Quality Act and findings of conformity with the General Plan, and with the eight priority policies of Planning Code, Section 101.1(b); setting the impact fees and exactions as set forth in the Development Agreement; and confirming compliance with or waiving certain provisions of Administrative Code Chapters, 14B and 56, and ratifying certain actions taken in connection therewith, as defined herein.

These legislations are being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for By:  Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

[Planning Code, Zoning Map - San Francisco Conservatory of Music Project - 200-214 Van Ness Avenue]

Ordinance amending the Planning Code to authorize a height limit exception for the San Francisco Conservatory of Music Project at 200-214 Van Ness Avenue for an additional building envelope that will be used to enclose or screen specified features from view, allow increased roof height for performance and common space, and provide additional visual interest to the roof of the structure; amending the Zoning Map to change the height designation of Assessor’s Parcel Block No. 811, Lot Nos. 10 and 12, from 96-X to 120-X; affirming the Planning Commission’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 adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

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

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

Section 1. Findings.

(a) At its hearing on _____, 2018, and prior to its action recommending to the Board of Supervisors the proposed Planning Code and Zoning Map amendments set forth in this ordinance, the Planning Commission (by Motion No. _____) approved a Mitigated Negative Declaration (“MND”) for the San Francisco Conservatory of Music project at 200-214

1 Van Ness Avenue ("Project") pursuant to the California Environmental Quality Act (California
2 Public Resources Code Sections 21000 et seq.), the CEQA Guidelines (14 California Code of
3 Regulations, Sections 15000 et seq.), and Chapter 31 of the Administrative Code. A copy of
4 Planning Commission Motion No. _____ is on file with the Clerk of the Board of Supervisors
5 in File No. _____ and is incorporated herein by reference. The Board of Supervisors
6 has reviewed the MND in connection with the actions contemplated herein and concurs with
7 its conclusions, affirms the Planning Commission's approval of the MND, and finds that the
8 actions contemplated in this ordinance are within the scope of the Project described and
9 analyzed in the MND.

10 (b) On _____, 2018, in Resolution No. _____, the Planning Commission
11 found that the actions contemplated in this ordinance are consistent, on balance, with the
12 City's General Plan, as it is proposed to be amended, and with the eight priority policies of
13 Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said
14 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____, and is
15 incorporated herein by reference.

16 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
17 ordinance will serve the public necessity, convenience, and welfare for the reasons stated in
18 Planning Commission Resolution No. _____.

19
20 Section 2. The Planning Code is hereby amended by revising Section 260, to read as
21 follows:

22 **SEC. 260. HEIGHT LIMITS: MEASUREMENT.**

23 * * * *

1 (b) **Exemptions.** In addition to other height exceptions permitted by this Code, the
2 features listed in this subsection (b) shall be exempt from the height limits established by this
3 Code, in an amount up to but not exceeding that which is specified.

4 (1) The following features shall be exempt; provided the limitations indicated
5 for each are observed; *and* provided further that the sum of the horizontal areas of all features
6 listed in this subsection (b)(1) shall not exceed *20% percent* of the horizontal area of the roof
7 above which they are situated, or, in C-3 Districts, and in the Rincon Hill Downtown
8 Residential District, where the top of the building has been separated into a number of
9 stepped elements to reduce the bulk of the upper tower, of the total of all roof areas of the
10 upper towers; and provided further that in any R, RC-3, or RC-4 District the sum of the
11 horizontal areas of all such features located within the first 10 feet of depth of the building, as
12 measured from the front wall of the building, shall not exceed *20% percent* of the horizontal
13 area of the roof in such first 10 feet of depth.

14 As an alternative, the sum of the horizontal areas of all features listed in this subsection
15 (b)(1) may be equal to but not exceed *20% percent* of the horizontal area permitted for
16 buildings and structures under any bulk limitations in Section 270 of this Code applicable to
17 the subject property.

18 Any such sum of *20% percent* heretofore described may be increased to *30% percent* by
19 unroofed screening designed either to obscure the features listed under (A) and (B) below or
20 to provide a more balanced and graceful silhouette for the top of the building or structure.

21 (A) Mechanical equipment and appurtenances necessary to the
22 operation or maintenance of the building or structure itself, including chimneys, ventilators,
23 plumbing vent stacks, cooling towers, water tanks, panels or devices for the collection of solar
24 or wind energy, and window-washing equipment, together with visual screening for any such
25 features. This exemption shall be limited to the top 10 feet of such features where the height

1 limit is 65 feet or less, and the top 16 feet of such features where the height limit is more than
2 65 feet.

3 (B) Elevator, stair and mechanical penthouses, fire towers, skylights, and
4 dormer windows. This exemption shall be limited to the top 10 feet of such features where the
5 height limit is 65 feet or less, and the top 16 feet of such features where the height limit is
6 more than 65 feet. However, for elevator penthouses, the exemption shall be limited to the top
7 16 feet and limited to the footprint of the elevator shaft, regardless of the height limit of the
8 building. The design of all elevator penthouses in Residential Districts shall be consistent with
9 the "Residential Design Guidelines" as adopted and periodically amended for specific areas or
10 conditions by the City Planning Commission.

11 The Zoning Administrator may, after conducting a public hearing, grant a further height
12 exemption for an elevator penthouse for a building with a height limit of more than 65 feet but
13 only to the extent that the Zoning Administrator determines that such an exemption is required
14 to meet state or federal laws or regulations. All requests for height exemptions for elevator
15 penthouses located in Residential or Neighborhood Commercial Districts shall be subject to
16 the neighborhood notification requirements of Sections 311 and 312 of this Code.

17 * * * *

18 (L) ~~Reserved.~~ In the C-3-G District, on sites fronting on Van Ness Avenue in
19 the 120-X height district, additional building volume used to enclose or screen from view the features
20 listed under subsections (b)(1)(A) and (b)(1)(B) above, to allow increased roof height for performance
21 and common space, and to provide additional visual interest to the roof of the structure. The rooftop
22 form created by the added volume shall not be subject to the percentage coverage limitations otherwise
23 applicable to this subsection (b)(1)(L), but shall meet the requirements of Section 141 and shall not
24 exceed 16 feet in height, measured as provided in subsection (a) above. Buildings that are eligible for
25

1 this exemption are also eligible for exceptions to any quantitative standards set forth in Article 1.2 of
2 this Code through Section 309 of this Code.

3
4 Section 3. The Zoning Map is hereby amended by revising Sectional Map HT-2 as
5 follows:

<u>Description of Property</u>	<u>Height District to be Superseded</u>	<u>Height District hereby Approved</u>
Assessor's Block 811, Lots 10 and 12	96-X	120-X

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11 Section 4. Effective and Operative Dates.

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

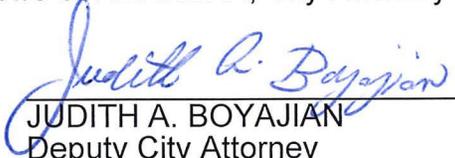
16 (b) This ordinance shall become operative on, and no rights or duties effected until,
17 the later of (1) its effective date or (2) the date that the ordinance approving the Development
18 Agreement for the Project and the ordinance approving amendments to the General Plan for
19 the Project have both become effective. Copies of said ordinances are on file with the Clerk of
20 the Board of Supervisors in File No. _____.

21
22 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
23 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
24 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
25 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

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additions, and Board amendment deletions, in accordance with the "Note" that appears under the official title of the ordinance.

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

By: 

JUDITH A. BOYAJIAN
Deputy City Attorney

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1 [Development Agreement - San Francisco Conservatory of Music - 200-214 Van Ness
2 Avenue]

3 **Ordinance approving a Development Agreement between the City and County of San**
4 **Francisco and San Francisco Conservatory of Music, a California non-profit public**
5 **benefit corporation, for the project at 200-214 Van Ness Avenue between Hayes Street**
6 **and the Dr. Tom Waddell Place mid-block alley, with various public benefits including**
7 **creation of student housing, faculty housing, a new performance venue in the Civic**
8 **Center cultural area, activation of a neglected portion of Van Ness Avenue, one-for-one**
9 **on-site replacement of 27 existing dwelling units with a specific Replacement and**
10 **Interim Housing Program for existing tenants, including the clear right to return to a**
11 **comparable unit and an interim relocation housing assistance, voluntary application of**
12 **rent control and waiving rights under the Ellis Act; making findings under the**
13 **California Environmental Quality Act and findings of conformity with the General Plan,**
14 **and with the eight priority policies of Planning Code, Section 101.1(b); setting the**
15 **impact fees and exactions as set forth in the Development Agreement; and confirming**
16 **compliance with or waiving certain provisions of Administrative Code Chapters, 14B**
17 **and 56, and ratifying certain actions taken in connection therewith, as defined herein.**

18
19 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
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23 **Board amendment deletions** are in ~~strikethrough Arial font~~.
24 **Asterisks (* * * *)** indicate the omission of unchanged Code
25 subsections or parts of tables.

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

25 ///

1 Section 1. Project Findings.

2 (a) California Government Code Sections 65864 et seq. authorize any city, county,
3 or city and county to enter into an agreement for the development of real property within its
4 jurisdiction.

5 (b) Chapter 56 of the Administrative Code ("Chapter 56") sets forth certain
6 procedures for the processing and approval of development agreements in the City and
7 County of San Francisco (the "City").

8 (c) San Francisco Conservatory of Music ("SFCM") is a nonprofit education
9 institution which has provided internationally acclaimed music education in San Francisco for
10 100 years. SFCM's 50 Oak Street campus was created in 2006 and included the
11 rehabilitation and restoration of an important historic resource. Since then, SFCM has
12 become a critical part of the City's Civic Center area cultural district, while serving over 400
13 students a year, both graduate and undergraduate, most of whom receive scholarship
14 support, and employing over 300 faculty and staff. SFCM owns lots 010 and 012 in Block 811
15 at 200-214 Van Ness Avenue, between Hayes Street and the Dr. Tom Waddell Place mid-
16 block alley, comprised of 2 buildings (collectively, the "Project Site"): 200 Van Ness, a three-
17 story building containing 27 residential units, and 214 Van Ness, a two-story building
18 containing vacant office space.

19 (d) SFCM filed an application with the City's Planning Department for approval of a
20 development agreement relating to the Project Site (the "Development Agreement") under
21 Chapter 56. A copy of the Development Agreement is on file with the Clerk of the Board in
22 File No. _____ and is incorporated by reference herein.

23 (e) SFCM proposes the following (the "Project"): to demolish the two existing
24 buildings on the Project Site, and create student housing with approximately 420 beds in 113
25 units, three faculty units, 27 residential units constituting one-for-one replacement of the

1 existing residential units ("Replacement Units") under a tenant Replacement Housing and
2 Interim Relocation Plan ("Replacement Housing Plan") as defined in the Development
3 Agreement), educational and performance space, and ground floor retail/restaurant and
4 related uses, all in an approximately 168,200-gross-square-foot building and as more
5 specifically described in the Development Agreement. The Project is designed to permit
6 SFCM to continue its historic contribution to exceptional music education and to strengthen
7 San Francisco's Civic Center area cultural district by providing student housing, performance
8 venues, and related facilities.

9 (f) Concurrently with this ordinance, the Board of Supervisors is taking a number of
10 actions by ordinance in furtherance of the Project, as generally described in the Development
11 Agreement, including in Exhibit D to the Development Agreement.

12 (g) In addition to the significant housing and cultural benefits to the City from the
13 Project, development of the Project in accordance with the Development Agreement will yield
14 additional clear benefits to the public that could not be obtained through application of existing
15 City ordinances, regulations, and policies. Major additional public benefits to the City from the
16 Project include: (1) expanding the City's supply of affordable housing by adding approximately
17 420 student beds and 3 faculty housing units and thereby alleviating some pressure on the
18 existing housing stock; (2) replacing on-site, and upgrading to modern standards, the
19 Replacement Units and providing other benefits for existing tenants, including the clear right
20 to return to a comparable unit, as described in the Replacement Housing Plan; (3) submitting
21 the Replacement Units to the City's Rent Control Ordinance and waiving rights under the Ellis
22 Act; (4) providing 45,200 square feet of much-needed educational and performance space
23 and thereby expanding artistic and cultural resources in the Civic Center area; and (5)
24 activating a neglected portion of Van Ness Avenue.

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1 Section 2. CEQA Findings.

2 On _____, by Motion No. _____, the Planning Commission adopted the
3 Mitigated Negative Declaration ("MND") for the Project published by the Planning Department
4 on December 27, 2017, and determined that the MND was adequate, accurate, and complete
5 and reflected the independent judgment of the Planning Department pursuant to the California
6 Environmental Quality Act (California Public Resources Code Sections 21000 et seq.)
7 ("CEQA"). A copy of Planning Commission Motion No. _____ is on file with the Clerk
8 of the Board of Supervisors in File No. _____ (the "CEQA Findings"). In consideration
9 of the actions contemplated in this ordinance, the Board has reviewed the MND and related
10 documents, and adopts as its own and incorporates by reference the CEQA Findings as
11 though fully set forth herein.

12 Section 3. General Plan and Planning Code Section 101.1(b) Findings.

13 (a) The Board of Supervisors finds that the Development Agreement will serve the
14 public necessity, convenience, and general welfare for the reasons set forth in Planning
15 Commission Resolution No. _____, which is on file with the Clerk of the Board in File
16 No. _____, and incorporates by reference those reasons as though fully set forth
17 herein.

18 (b) The Board of Supervisors finds that the Development Agreement is in conformity
19 with the General Plan, as proposed to be amended by this ordinance, and with the eight
20 priority policies of Planning Code Section 101.1, for the reasons set forth in Planning
21 Commission Resolution No. _____. The Board hereby adopts those findings set forth
22 in Planning Commission Resolution No. _____ and incorporates by reference those
23 findings as though fully set forth herein.

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1 Section 4. Development Agreement.

2 (a) The Board of Supervisors approves all of the terms and conditions of the
3 Development Agreement, in substantially the form on file with the Clerk of the Board of
4 Supervisors in File No. _____, including the Impact Fees and Exactions.

5 (b) The Board of Supervisors approves and authorizes the execution, delivery, and
6 performance by the City of the Development Agreement as follows: (1) the Director of
7 Planning is authorized to execute and deliver the Development Agreement, and (2) the
8 Director of Planning, and other City officials as applicable, are authorized to take all actions
9 reasonably necessary or prudent to perform the City's obligations and enforce the City's rights
10 and remedies under the Development Agreement in accordance with its terms. The Director
11 of Planning, at the Director's discretion and in consultation with the City Attorney, is
12 authorized to enter into any additions, amendments, or other modifications to the
13 Development Agreement that the Director of Planning determines are in the best interests of
14 the City and that do not materially increase the obligations or liabilities of the City or materially
15 decrease the benefits to the City as provided in the Development Agreement.

16 Section 5. Satisfaction or Waiver of Administrative Code Provisions.

17 The Development Agreement shall prevail in the event of any conflict between the
18 Development Agreement and Administrative Code Chapters 14B and 56, and without limiting
19 the generality of the foregoing clause, for purposes of the Development Agreement only, the
20 provisions of Administrative Code Chapters 14B and 56 are waived or its provisions deemed
21 satisfied as follows:

22 (a) Cultural and educational and housing benefits to the City from the Project
23 provide the unique public benefits contemplated in Chapter 56. Therefore, regardless of
24 SFCM's status as a nonprofit educational entity subject to Planning Code Section 304.5, or
25

1 the size of the Project site, it is hereby deemed to satisfy the provisions of Chapter 56,
2 Section 56.3(g).

3 (b) The nature of the Project's size and nonprofit status is one not contemplated by
4 Administrative Code Chapter 14B or Chapter 56, Section 56.7(c), and as such, those
5 provisions are deemed to not apply.

6 (c) The provisions of the Development Agreement regarding any amendment or
7 termination, including those relating to "Material Change," shall apply in lieu of the provisions
8 of Chapter 56, Section 56.15.

9 (d) In connection with the Development Agreement, the Board of Supervisors finds
10 that the requirements of Chapter 56, as modified hereby, have been substantially complied
11 with and waives any procedural or other requirements of Chapter 56 if and to the extent that
12 they have not been strictly complied with.

13 Section 6. Ratification.

14 All actions taken by City officials in preparing and submitting the Development
15 Agreement to the Board of Supervisors for review and consideration are hereby ratified and
16 confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken
17 by City officials consistent with this ordinance.

18 Section 7. Effective and Operative Dates.

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

23 (b) Operative date. This ordinance shall become operative on (and no rights or
24 duties are affected until) the later of (a) its effective date, as specified in subsection (a), or
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(b) the date that the three ordinances Ordinance _____, Ordinance _____,
and Ordinance _____ in Board File No. _____ have all become effective.

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

By: 
HEIDI J. GEWERTZ
Deputy City Attorney
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LEGISLATIVE DIGEST

[San Francisco Conservatory of Music Development Agreement]

Ordinance approving a Development Agreement between the City and County of San Francisco and the San Francisco Conservatory of Music, a California non-profit public benefit corporation ("SFCM"), for certain real property located at 200-214 Van Ness Avenue between Hayes Street and the Dr. Tom Waddell Place mid-block alley; making findings under the California Environmental Quality Act and findings of conformity with the City's General Plan and with the eight priority policies of Planning Code Section 101.1(b); setting the impact fees and exactions as set forth in the Development Agreement; and confirming compliance with or waiving certain provisions of Administrative Code Chapters 14B and 56.

Existing Law

California Government Code section 65864 *et seq.* (the "Development Agreement Statute") and Chapter 56 of the San Francisco Administrative Code ("Chapter 56") authorize the City to enter into a development agreement regarding the development of real property. Chapters 37 and 37A of the San Francisco Administrative Code (the "Rent Ordinance") establishes certain tenant protections and rights with respect to rental units that are covered by the Rent Ordinance. As a general matter, rental units that are created after the effective date of the Rent Ordinance, or June 13, 1979, are not covered by the Rent Ordinance.

Amendments to Current Law

The proposed ordinance, if adopted, would result in the approval of the proposed development agreement (the "Development Agreement") with SFCM ("Developer") in accordance with the Development Agreement Statute and Chapter 56. The Development Agreement would provide to Developer the vested right to develop the project site as described in the Development Agreement over a 10 year term. There are no proposed amendments to current law. The parties have agreed to impose the Rent Ordinance on the 27 replacement units.

Background Information

Under the Development Agreement, the Developer proposes to demolish the two existing building on the Project Site and create student housing with approximately 420 beds in 113 units, three faculty units, 27 residential units constituting one-for-one replacement of the existing residential units under a tenant Replacement Housing and Interim Relocation Plan, educational and performance space, and ground floor retail/restaurant and related uses, all in an approximately 168,200-grou-square-foot building.

FILE NO. 180115

By separate legislation, the Board is considering taking a number of actions in furtherance of the proposed project, including the approval of amendments to the City's General Plan and Planning Code.

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