



# SAN FRANCISCO PLANNING DEPARTMENT

## Certificate of Determination EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW

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Case No.: 2011.1382E  
 Project Title: Board File No. 111247 (Permitting a 5 Feet Ground Floor Height Increase in the 40-X and 50-X Height and Bulk Districts in the NC-3 Zoning District along Geary Boulevard)  
 Zoning: NC-3, NC-2, and Inner and Outer Clement Street NCDs  
 40-X and 50-X Height and Bulk Districts  
 Block/Lot: Various  
 Lot Size: Various  
 Project Sponsor: Supervisor Eric Mar, District 1, San Francisco Board of Supervisors  
 Staff Contact: Jeanie Poling – (415) 575-9072  
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### PROJECT DESCRIPTION:

The proposed project is an ordinance that would amend San Francisco Planning Code Section 263.20, which permits a maximum 5-foot ground-floor height increase for active ground-floor uses in the 40-X and 50-X Height and Bulk Districts, to include the NC-3 (Moderate Scale Neighborhood Commercial) Zoning District along Geary Boulevard from Scott Street to 28th Avenue. A modification to the legislation proposed by the Planning Department would also amend Section 263.20 to include parcels in the Inner Clement Neighborhood Commercial District (NCD)(Clement Street between Arguello Boulevard and Funston Avenue); the Outer Clement NCD (Clement Street between 18th and 28th Avenues); and NC-2 (Small-Scale Neighborhood Commercial) District on Balboa Street between 2nd and 8th Avenues, and between 32nd and 39th Avenues. [Continued on following page.]

### EXEMPT STATUS:

General Rule Exclusion (State CEQA Guidelines, Section 15061(b)(3))

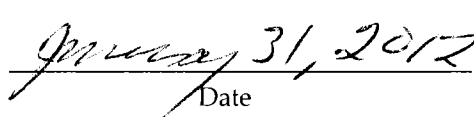
### REMARKS:

Please see next page.

### DETERMINATION:

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

  
 Bill Wycko  
 Environmental Review Officer

  
 Date

cc: Kimia Haddadan, San Francisco Planning Dept.  
Supervisor Eric Mar

Distribution List  
Virna Byrd, M.D.F

## PROJECT DESCRIPTION (CONTINUED):

Planning Code Section 263.20 provides a 5-foot height exception for active ground floor uses in Neighborhood Commercial Transit (NCT) Districts, the Upper Market Street NCD, certain NC-2 and NC-3 parcels on Mission Street south of Silver Avenue, and NC-1 parcels in the Oceanview neighborhood. In addition, the 5-foot height exception has been proposed for the Glen Park and Fisherman's Wharf areas. The 5-foot special height exception is applicable to properties that contain ground-floor commercial, other active, or residential uses, where the ground-floor commercial space or active use occupies at least 50 percent of the project's ground floor area, and where the project sponsor has conclusively demonstrated that the additional 5-foot increment would not add new shadow to any public open space. Furthermore, Planning Code Section 263.20 specifies that 1 additional foot of height, up to a total of 5 feet, is permitted above the designated height limit for each additional foot of ground floor clear ceiling height in excess of 10 feet from sidewalk grade, or in the case of residential units, for each foot the unit is raised above sidewalk grade.

The 5-foot exception provided by Planning Code Section 263.20 is not sufficient to add another story but provides an incentive for developers to create lively ground-floor commercial spaces along NCD corridors. Older buildings along commercial streets in the 40-X and 50-X height districts are generally three or four stories with each story having a minimum of 12-foot clear ceiling heights, with spaces that are directly accessed from the street. The older residential buildings in these districts often have ground-floor units that are elevated several feet above the sidewalk level and include stoops to provide direct access to individual units. Newer buildings along commercial streets in the 40-X and 50-X height districts, however, tend to have four or five 10-foot stories, and the residential buildings often contain a single ground-floor entrance lobby providing access to multiple dwelling units. These buildings generally lack visual interest and human scale and don't contribute to public life on the street. The intention of the 5-foot height exception is to encourage developers to incorporate the design elements of the older types of buildings into new commercial and residential development projects to offer more attractive uses that will better activate the public realm.

Figure 1 identifies (1) the parcels proposed for the 5-foot height exception under proposed Board of Supervisors Ordinance No. 111247, and (2) additional parcels recommended by the Planning Department for inclusion in the legislation.

## REMARKS:

California Environmental Quality Act (CEQA) State Guidelines Section 15061(b)(3) establishes the general rule that CEQA applies only to projects that have the potential to cause a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**Land Use.** The proposed project would allow future development projects in NCDs to be up to 5 feet taller, with taller ground-floor retail space. The land uses covered by this legislation are located exclusively in Neighborhood Commercial Use Districts, in which ground-floor uses are typically commercial, with residential use above. All parcels affected by this legislation are within the 40-foot height district, with the exception of one block on the north side of Geary Boulevard between Presidio and Lyon Streets, which is in the 50-foot height district.

Geary Boulevard from Scott Street to 28th Avenue contains continuous retail development, generally one-story retail or two- and three-story residential-over-retail buildings, interspersed with churches,

schools, gas stations, and taller residential-over-commercial buildings. Larger developments along this corridor include medical offices and Kaiser Hospital near Divisadero Street, the City Center shopping center and Muni facilities at Masonic Boulevard, the six-story Institute for the Aging senior residences and social services facility at Arguello Boulevard, and the six-story Kaiser Permanente Medical Center French Campus at 6<sup>th</sup> Avenue.

The Inner Clement NCD generally contains single-story commercial buildings and two- and three-story residential-over-commercial buildings. The Outer Clement Street NCD contains two- and three-story mixed-use buildings with some fully commercial and fully residential buildings interspersed between them.

Balboa Street between 2nd and 8th Avenues and between 32nd and 39th Avenues contains two- and three-story mixed-use buildings with some fully commercial and fully residential buildings interspersed between them. Four-story buildings along this corridor include the San Francisco Institute of English and a residential building at 34<sup>th</sup> Avenue, a residential building at 35<sup>th</sup> Avenue, and residential over commercial buildings at 36<sup>th</sup> and at 39<sup>th</sup> Avenues.

Housing development is encouraged in new buildings above the ground story in all the NCDs covered in the proposed project. Future commercial growth is directed to the ground story in order to promote more continuous and active retail frontage.

A project could have a significant effect on land use if it would physically divide an established community; conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect; or have a substantial adverse impact on the existing character of the vicinity.

The proposed project would allow for slightly taller buildings to be constructed but would not be considered to cause a substantial adverse impact on the existing character of the NCD. Furthermore, the proposed project would not physically disrupt or divide an established community, or conflict with any land use plan, policy, or regulation that has been adopted for the purpose of avoiding or mitigating an environmental effect. For these reasons, the proposed project would not result in a significant effect on land use.

**Visual Quality and Urban Design.** The proposed project would increase maximum permitted building heights along the NCDs identified in Figure 1. The proposed height exception would be minor, up to 5 feet, and would occur within a highly developed urban environment. The 5-foot height exception is not so great as to allow another story to be added to an existing building. The parcels that are subject to the proposed height increase are mostly adjacent to residential districts, zoned RH-1, -2, and -3 (Residential House, One- Two- and Three-Family) and RM-1 (Low-Density Mixed Residential). A portion of three blocks on the north side of Geary between Palm and Parker Streets contain parcels that are zoned RH-1(D) (Residential, One Family – Detached Dwellings). Regardless of the zoning of the adjacent parcels, the development of individual NCD parcels to a height 5 feet above existing height allowances would be noticeable to immediate neighbors; however, in the dense urban character of development within and surrounding the NCDs, this minor increase in height would have correspondingly minor visual impacts.

In reviewing visual quality and urban design under CEQA generally, consideration of the existing context in which a project is proposed is required, and evaluation must be based on the impact on the

existing environment. That some people may not find a given development project attractive does not mean that it creates a significant aesthetic environmental impact; projects must be judged in the context of the existing conditions. For the proposed height exception, the context is urban right-of-way that is already developed. Given the context and the minor allowable increase of up to 5 feet and the incremental nature of such development along an NCD, the proposed height exception would be consistent with the existing, developed environment, and its visual effects would not be unusual and would not create adverse aesthetic impacts on the environment. Furthermore, it would not be likely to result in a substantial, demonstrable negative aesthetic effect, or obstruct or degrade scenic views or vistas now observed from public areas. Thus, the proposed project would result in less-than-significant impacts on visual quality and urban design.

In addition, the increased height allowed by the proposed legislation would not directly or indirectly contribute to the generation of any obtrusive light or glare. For all the above reasons, proposed legislation would not result in a significant adverse effect on public views or aesthetics.

**Historic Resources.** The proposed special height exception could result in increased building heights within a potential historical district or affect known historical resources. The allowable increase in height, however, would be minor (up to 5 feet) and in and of itself would not result in a material impairment to a historic district or historic building. Projects taking advantage of the height exception could involve the re-use and remodeling of existing historical buildings, but such a minor height increase could be accomplished maintaining the general scale, design, and materials of the historical resources, thereby maintaining their historic context. Any development proposal taking advantage of the height exception would be subject to further review for a determination of whether the project would result in potential impacts to the environment, including historic resources. The proposed legislation therefore would not result in a significant effect on historical resources.

**Noise and Air Quality.** The proposed special height exception of up to 5 feet would potentially result in an incremental increase in construction activities or greater intensity of use at future development project sites, in that such development projects that would occur regardless of the proposed legislation could be up to 5 feet taller. Thus, the resulting increase in operational or construction noise would be minimal, and noise and air quality impacts would be less than significant.

**Shadow.** Planning Code Section 263.20(b)(6) specifies that the 5-foot special height exception is applicable to properties where the project sponsor has conclusively demonstrated that the additional 5-foot increment would not add new shadow to any public open space. For this reason, the proposed legislation would not result in a significant impact with regard to shadow.

**Light and Air.** The 5-foot special height exception could result in slightly taller development projects that could potentially change or reduce that amount of light and air available to adjacent buildings. Any such changes could be undesirable for those individuals affected. Given the minor increase in height that would be permitted, it is anticipated that any changes in light and air would also be minor and would not affect a substantial number of people. Thus, the potential impact of the proposed legislation on light and air would not be significant.

**Wind.** The proposed legislation would allow a minor 5-foot increase in height for future development projects at the NCD parcels identified in Figure 1. Most parcels affected by this legislation are within the 40-foot height district; thus, the maximum resulting building height would be thus 45 feet. (For one block on the north side of Geary Boulevard between Presidio and Lyon Streets, in the 50-foot height

district, the maximum resulting building height would be 55 feet). In general, buildings up to 55 feet in height do not result in wind speeds that cause new exceedances (violations) of the hazard criterion of 26 miles per hour for a single hour of the year as established in the Planning Code Section 148. For this reason, the proposed legislation would not result in a significant impact with regard to wind.

**Cumulative Impacts.** The proposed 5-foot height exception could potentially result in a minimal increase in construction activities and greater intensity of use at individual future development project sites, in that such development projects that would occur regardless of the proposed legislation could be up to 5 feet taller. This increase in activities and intensity of use would not be considered significant. Thus, cumulative impacts would be less than significant.

**Neighborhood Concerns.** A "Notification of Project Receiving Environmental Review" was mailed on January 10, 2012, to potentially interested parties. One commenter expressed concerns about noise and air quality effects, cumulative build-outs, and the effects on land use and visual character of the blocks on the north side of Geary between Palm and Parker Streets (which are zoned RH-1(D)). These topics are addressed above.

**Conclusion.** CEQA Guidelines Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant impact on the environment. As noted above, there are no unusual circumstances surrounding the current proposal that would suggest a reasonable possibility of a significant effect. Since the proposed project would have no significant environmental effects, it is appropriately exempt from environmental review under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3)).

**Figure 1: Parcels Proposed for 5-Foot Height Exception for Active Uses**



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