

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: *AS*  
*fn* Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

DATE: October 13, 2016

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following substitute legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 140877**

**Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution (in lieu fee) to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

**No Comment**

**Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

c: Menaka Mahajan, Small Business Commission

1 [Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open  
2 Space]

3 **Ordinance amending the Downtown Support Special Use District to authorize a**  
4 **monetary contribution to satisfy required on-site open space requirements, exclude**  
5 **certain features from floor area ratio and gross floor area calculations, and dedicate the**  
6 **monetary contribution for lighting and safety improvements at Victoria Manolo Draves**  
7 **Park; affirming the Planning Department's California Environmental Act determination**  
8 **and making findings of consistency with the General Plan, and the eight priority**  
9 **policies of Planning Code, Section 101.1.**

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

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

18 Section 1. Findings.

19 (a) The Planning Department has determined that the actions contemplated in this  
20 ordinance comply with the California Environmental Quality Act (California Public Resources  
21 Code Sections 21000 et seq.). The Board of Supervisors hereby affirms this determination.  
22 Said determination is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_ and  
23 is incorporated herein by reference.

24 (b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted  
25 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
City's General Plan and eight priority policies of Planning Code Section 101.1. The Board

1 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
2 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

3  
4 Section 2. The Planning Code is hereby amended by revising Section 247, to read as  
5 follows:

6 **SEC. 247. DOWNTOWN SUPPORT OPEN SPACE DEMONSTRATION SPECIAL USE**  
7 **DISTRICT.**

8 (a) **Purpose.** In order to provide that a certain area within the C-3-S District be able  
9 to be developed for hotel use with an increased basic floor area ratio of 7.5 to 1, there shall be  
10 a "Downtown Support Special Use District" (also referred to as the "C-3-S (SU) District") as  
11 designated on *Zoning Sectional Map 4 SU01 of the Zoning Map*. *Development at densities above the*  
12 *basic floor area ratio of 7.5:1 in this special use district will not be permitted.*

13 (b) **Requirements.**

14 (1) **Floor Area Ratio.** The basic and maximum floor area ratio of the C-3-S  
15 (SU) District, after purchase of all market-rate, available TDR within the C-3-S District, shall  
16 be 7.5:1. *Development at densities above the basic floor area ratio of 7.5:1 in this special use district*  
17 *will not be permitted. Roof eaves, cornices, or belt courses that project no more than two feet from the*  
18 *face of the building wall shall be excluded from the FAR calculation.*

19 Where there are fewer square feet of TDR within the C-3-S District available than the  
20 Planning Commission determines is required for a project, the Planning Commission may, as  
21 part of a Section 309 review, authorize a project sponsor to make a monetary contribution  
22 towards the preservation of a Landmark building within the C-3 area in an amount to be  
23 determined by the Commission. For purposes of this Section 247, the C-3 area shall include  
24 any C-3 District and any P District adjacent thereto. All other provisions of this Code  
25 applicable to the C-3-S District shall apply in the C-3-S (SU) District.

1                   (2) **Gross Floor Area Calculation.** Notwithstanding the definition of Gross Floor  
2 Area in Section 102 of this Code, balconies, porches, roof decks, terraces, courts, and similar features  
3 shall be excluded from the calculation of Gross Floor Area if they are fully open to the sky, even if  
4 covered by retractable canopies and associated support structures; however, the features listed in  
5 subsection (b) of said definition, shall be used to calculate the in lieu fee authorized pursuant to  
6 subsection (b)(3) below.

7                   (3) **Privately-Owned Public Open Space Requirements; Payment of In-lieu Fee.**  
8 The Board of Supervisors hereby authorizes the payment of a fee of \$2,500,000 in lieu of the project  
9 sponsor's provision of the 4th and 6th floor terraces at 888 Howard Street as required on-site open  
10 space for the project constructed pursuant to this Section 247. The amount of the in-lieu fee represents  
11 a construction cost of \$290.70 per square foot of Gross Floor Area multiplied by the 8,600 square foot  
12 of open space required by Section 138 of this Code.

13                   In authorizing the payment of an in-lieu fee, the Board finds and determines that:

14                   (i) the existing open space is cold and shadowed, and will have increased  
15 shadow when the 5M project across the street is constructed;

16                   (ii) the terraces are physically constrained; and

17                   (iii) the terraces have been proven to be little used as open space and presents  
18 a safety concern for hotel management and guests.

19                   (c) **Authorized Use of the In-Lieu Fee.** The in-lieu fee shall be dedicated to the Recreation  
20 and Parks Department and used to improve the lighting and safety features of Victoria Manolo Draves  
21 Park, including any increased funding required to staff evening hours.

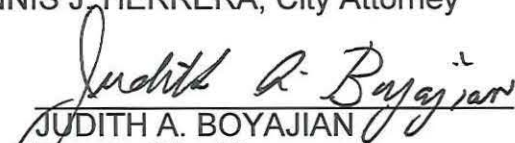
22  
23                   Section 3. Effective Date. This ordinance shall become effective 30 days after  
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
25

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 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
5 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
6 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
7 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
8 additions, and Board amendment deletions in accordance with the "Note" that appears under  
9 the official title of the ordinance.

10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13 By:

  
14 JUDITH A. BOYAJIAN  
15 Deputy City Attorney  
16 n:\legana\as2014\1400428\01140990.doc

**REVISED LEGISLATIVE DIGEST**

(Substituted 10/04/2016)

[Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open Space]

**Ordinance amending the Downtown Support Special Use District to authorize a monetary contribution to satisfy required on-site open space requirements, exclude certain features from floor area ratio and gross floor area calculations, and dedicate the monetary contribution for lighting and safety improvements at Victoria Manolo Draves Park; affirming the Planning Department's California Environmental Act determination and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

Existing Law

Planning Code Section 247 established the Downtown Support Special Use District (SUD) for property on 5th Street between Mission and Howard Streets. The purpose of the SUD was to allow a certain area within the C-3-S District to be developed for a hotel use. Within the SUD area, the basic and maximum floor area ratio, after purchase of all market-rate, available Transferable Development Rights (TDR) within the District, is 7.5:1. Where there are fewer square feet of TDR available than the Planning Commission determines is required, the Commission may authorize a project sponsor to make a monetary contribution towards the preservation of a Landmark building within the C-3 area in an amount to be determined by the Commission. All other provisions of the Planning Code apply within the SUD.

Amendments to Current Law

The SUD is proposed to be renamed the "Downtown Support Open Space Demonstration Special Use District" and will authorize the project sponsor of an existing project to make a monetary contribution of \$2,500,000 in lieu of providing terraces on the 4th and 6th floors at 888 Howard Street as required on-site open space. The amount of the in-lieu fee represents a construction cost of \$290.70 per square foot of Gross Floor Area multiplied by the 8,600 square feet of open space required by Planning Code Section 138. The in-lieu fee is dedicated to the Recreation and Parks Department and shall be used to improve the lighting and safety features of Victoria Manolo Draves Park.

In the SUD, development at densities above the basic floor area ratio of 7.5:1 will not be permitted within the SUD but roof eaves, cornices, or belt courses which project no more than two feet from the face of the building will be excluded from the floor area ratio calculations. Balconies, porches, roof decks, terraces, courts, and similar features are excluded from the calculation of Gross Floor Area, as defined in Section 102 of the Planning Code, if they are fully open to the sky even if covered by retractable canopies and associated support structures; however, these elements are included in the calculation of the in-lieu fee.

Background Information

An existing hotel project that was developed pursuant to the SUD established in Planning Code Section 247 has been unable to satisfy the requirement of on-site open space due to physical constraints and other factors. Despite efforts by the hotel to increase access and visibility to the existing open space, it largely remains unused and presents a safety concern for hotel management and guests. Members of the South of Market community have expressed a desire for enhanced safety and expanded hours at the popular neighborhood park, Victoria Manolo Draves Park. The Recreation and Parks Department has researched the installation of lighting at the entrance, the perimeter and over the playing fields and basketball courts in order to increase safety as well as expand the number of hours at which the community can access the park after dusk.

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