



San Francisco Public Works  
General – Director’s Office  
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**Public Works Order No: 211190**

**Director’s Finding for Sunnydale HOPE SF Project Phase 3 (Final Map Phase 3 and 4 and Infrastructure Phase 1B-1C):**

**Conditionally Approving Certain Requests for Exceptions to the Subdivision Code and Regulations and Tentative Map Conditions of Approval and Requests for Deferrals beyond the Notice of Completion for Infrastructure Phase 1B-1C.**

WHEREAS, pursuant to the Subdivision Map Act of California, Title 7, Division 2 of the Government Code, commencing with Section 66410, the Board of Supervisors adopted the San Francisco Subdivision Code (Division 1) (the “Subdivision Code”) and the Department of Public Works adopted the 2015 Subdivision Regulations by Public Works Order No. 183447 (the “Regulations”); and

WHEREAS, the Department of Public Works, acting through its Director (“Director”) is the Advisory Agency for all purposes of the Subdivision Code and the Regulations; and

WHEREAS, pursuant to the Subdivision Code and the Regulations, Subdivider has submitted Tentative Subdivision Map No. 9537 (“Tentative Map”) and will submit one or more phased final subdivision maps (each a “Final Map”), for the proposed development of the Property; and

WHEREAS, the Subdivision Code and the Regulations apply to the subdivisions depicted in proposed Final Map No. 12077 that will be presented for consideration of approval by the Board of Supervisors; and

WHEREAS, On February 3, 2017, by Ordinance No. 18-17, the City approved a Development Agreement between the Sunnydale Development Co., LLC (“Developer” or “Subdivider”) which is recorded in the Official Records as Document No. 2017-K416604-00 (the “DA”); and

WHEREAS, Pursuant to the DA, Subdivider is obligated to construct horizontal infrastructure and public improvements (“Required Infrastructure”); and

WHEREAS, the Subdivision Code requires that before a Final Map is approved by the Board of Supervisors, the Subdivider shall have either (i) installed and completed all of the public improvements required by the City as detailed in the plans and specifications approved by the City Engineer, or (ii) entered into a Public Improvement Agreement (“PIA”) with the City to install and complete, free of liens, all of such public improvements within a definite period of time and provided appropriate security to ensure satisfactory completion of the work; and

WHEREAS, The Subdivision Code and the Subdivision Regulations (see e.g., Appendix A, § VII.D) provide that the City will only consider full, complete and functional public streets for purposes of City maintenance and responsibility; and

WHEREAS, pursuant to the Code and Section III(A) of the Regulations, the Director may approve exceptions to any of the substantive requirements set forth in the Subdivision Code and the Regulations, upon the finding that (i) the application of the referenced provision of the Subdivision Regulations would result in practical difficulties or unnecessary hardships affecting the property inconsistent with the project approvals or City regulations, (ii) the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the area, and (iii) the granting of the exception is not contrary to the project approval or City regulations; and

WHEREAS, the Code specifies that the Director shall designate the conditions under which such exceptions are granted; and

WHEREAS, on October 22, 2024 Developer submitted to the Director, a request for exceptions and deferrals (the “Exceptions and Deferral Request”) related to Sunnydale HOPE SF Phase 1B-1C (Final Map No. 12077 Phase 3 and 4), seeking exceptions from the Subdivision Code and Regulations and Tentative Map Conditions of Approval attached hereto as Attachment 1, which Exceptions and Deferral Request was circulated by the Director to all affected City Agencies for review and comment; and

WHEREAS, Collectively, approval of the exceptions to allow for deferral of the installation, completion or operation of the Required Infrastructure as described herein and in the Deferral Request Letter will allow the Director to issue a Notice of Completion (“NOC”), as described in the Subdivision Code and in the PIA for Required Infrastructure completed in compliance with the PIA and the SIP and which is otherwise ready for its intended use, subject to Subdivider’s compliance with and/or satisfaction of all the conditions of the exceptions granted herein; and

WHEREAS, Based on the issuance of the NOC for qualifying Required Infrastructure, subject to approval of the above exceptions, the Director and the City Engineer are prepared to make a recommendation that the City’s Board of Supervisors authorize the Director to accept and publicly dedicate any deferred public improvements following the satisfaction of all of the conditions of the exceptions granted herein; and

WHEREAS, the Director published notice of a public hearing in the San Francisco Examiner on October 13, 2024; and

WHEREAS, the Director held a virtual public hearing on the proposed Exceptions and Deferrals Request on October 23, 2024 and received no public comment; and

WHEREAS, the Hearing Officer reviewed the presentation and provided recommendation for approval to the Director of Public Works.

NOW THEREFORE BE IT ORDERED THAT,

The Director finds that granting the requested exceptions is consistent with Subdivision Code Section 1712 and the Regulations, as follows:

- ***Subdivision Code § 1712(b)(1): Absent the exceptions requested by Subdivider, the application of the provisions of the Subdivision Code, the Subdivision Regulations, the Tentative Map***

***Conditions of Approval, and the scope of the Street Improvement Permit that correspond to the deferrals requested by Subdivider would result in practical difficulties and unnecessary hardships inconsistent with the Project approvals and the City Regulations.***

The public use and benefits of the HOPE SF Sunnydale Phase 1B-1C (Final Map Phase 3-4) is necessary for the delivery of market rate and affordable housing, open space, and other public benefits. The denial of requested deferrals to enable the NOC and acceptance of the completed portion of the Required Infrastructure and delay to the City's acceptance of infrastructure required to support housing, retail and other public benefits would result in unnecessary hardships to the project and surrounding community.

- ***Subdivision Code § 1712(b)(2): Granting of the exceptions will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated.***

The granting of the exceptions, waivers, or deferrals the Subdivider has requested will not be materially detrimental to the public welfare or injurious to other property in the area in which said property is situated provided that the conditions applicable to the granting of the exceptions are satisfied. The completed portions of Required Infrastructure, proposed for Final NOC and acceptance prior to completion of the deferred improvements, are operational prior to the completion of the deferred work without posing any injury or detriment to public welfare. All portions of work within the public streets are subject to Public Works permitting requirements and otherwise subject to City regulatory requirements.

- ***Subdivision Code § 1712(b)(3): Granting of the exceptions is not contrary to the Project approvals or City regulations.***

As described above, approval of an exception to authorize the NOC and City acceptance of the completed portion of the Phase 1B-1C Required Infrastructure prior to completion of deferred work is not contrary to the Project approvals or City regulations. NOC and acceptance of these improvements are essential to maintaining the Project schedule and the delivery of associated housing and other public benefits.

- ***The exception is not in violation of the Map Act. (Subdivision Code § 1712(d).)***

The Map Act does not prohibit the Subdivider from offering for acceptance and public dedication streets with certain deferred improvements. The obligation for the City to accept full and complete streets is found in the Subdivision Regulations and the Administrative Code.

Based on the findings described above, the Director conditionally approves Subdivider's requests for exceptions to authorize the deferral of completion, installation, or operation of infrastructure to the extent otherwise required under the Subdivision Code, Subdivision Regulations, the PIA, the SIP, and HOPE SF Tentative Map Conditions of Approval as more particularly stated below. The approval is subject to Subdivider's compliance with and/or satisfaction of all the conditions of the exceptions granted herein.

The Director conditionally approves Subdivider's requests for exceptions, including deferral of certain obligations, from the Subdivision Code and Regulations and Tentative Map Conditions of Approval as more particularly described below.

### **Request for Exception No. 1**

*Request for Exception to Subdivision Regulations, App. B §XV.B.3 “Sewers 6” to 21” in diameter shall be vitrified clay pipe (VCP) (ASTM C-700 Extra Strength). Sewers 24” to 36” diameter may be of VCP (ASTM C-700 Extra Strength) with construction modifications, or of reinforced concrete pipe subject to the approval of the Director with the consent of the SFPUC. Requesting approval for use of HDPE Pipe for Combined Sewer System in Lieu of VCP Pipe and reduction in pipe diameter downstream to accommodate differing pipe materials (VCP v. HDPE)*

- The Director approves said request for exception, consistent with approvals granted for the previous project Phases 1A1-1A2 and 1A3; the San Francisco Public Utilities Commission (“SFPUC”) has concurred.

### **Request for Exception No. 2**

*Request for Exception to the Subdivision Regulations requirement for roadway grades exceeding 14% but less than 17% requiring SFFD approval on Temporary Blythdale Avenue.*

- With concurrence from the San Francisco Fire Department (“SFFD”), the Director conditionally approves said request for exception applicable to the interim roadway slope of Blythdale Avenue extension/connector road, allowing a design grade of greater than 14% but less than 17%, subject to the following condition: When Blythdale Avenue is designed and reconstructed to its permanent alignment in a future phase, the proposed slopes shall be reviewed and approved by the SFFD during the review of the Final Map and Street Improvement Plans for that phase.

### **Request for Exception No. 3**

*Request for Exception to Subdivision Regulations Appendix B- Technical Specifications for City approval of exceptions and design modifications as shown in the Street Improvement Permit plans for Final Map Phase 3 and 4 (Infrastructure Phase 1B-1C) that would be effective when the City approves the Street Improvement Permit plans.*

- Exception has no significant effects on the public and allows for minor modifications through the Street Improvement Permit. The Director approves said request for exception, consistent with approvals granted for the previous project phase.

### **Request for Deferral No. 1**

*Request for Deferral of Tentative Map Condition of Approval SFDPW-BSM Condition #7: “A Street Improvement Permit shall not be approved and issued until all other City design requirements and agency requirements, including but not limited to sidewalk legislation, approval from SFPUC, approval from Public Works Hydraulics, approval from SFFD, approval from SFMTA, approval from Public Works Structural, and approval from the Public Works Disability Access Coordinator are granted unless otherwise stated by Public*

*Works.” Request is for deferral of Sidewalk Legislation to until such time as the Offer of Improvements is submitted to the Board of Supervisors for acceptance.*

- The Director approves said request for deferral to allow for sidewalk legislation to be included with acceptance Ordinance and not prior to issuance of an Street Improvement Permit; SFPW-BSM has concurred.

### **Request for Deferral No. 2**

*Request for Deferral of the installation of landscaping and 3 pedestrian light poles after a Notice of Completion for Phase 1B-1C.*

- Landscaping will be privately owned and maintained by Developer and permitted through an Encroachment Permit. The pedestrian lights subject to this deferral will be privately owned and maintained by Developer. With support from the San Francisco Public Utilities Commission (“SFPUC”) described below, regarding the request to defer installation of pedestrian lights until after a Notice of Completion, the Director approves said request for deferral, subject to the following conditions:
  - The Director will retain adequate security equivalent to 100% of the cost of all deferred improvements until final signoff of the deferred work.
  - Subdivider will maintain temporary lights to provide equivalent luminescence as permitted under the SIP until permanent lights are operational.
  - Subdivider will indemnify and hold harmless the City for any claims related to lighting levels and Subdivider’s installation and interim operation and maintenance of the streetlight and pedestrian lighting system, in a form acceptable to City.
  - Subdivider will coordinate final inspection with the City and resolve any required punchlist work.
  - Subdivider will provide the full warranty for deferred work, equivalent to the warranty terms and requirements set forth in the PIA, commencing upon final signoff of deferred work.
  - Vertical developer shall not request a Temporary Certification of Occupancy (TCO) for the fronting property nor shall Public Works sign-off on such TCO until the Subdivider has obtained a Notice of Completion or its equivalent for the deferred street and pedestrian lighting necessary to provide adequate illumination for the safety of the building’s residents and/or tenants.

PUC concurs in the deferral, and notes that it has maintenance concerns regarding location of the light poles that must be resolved for PUC to consider ownership or acceptance of the pedestrian lights offered by Developer.

### **Request for Deferral No. 3**

*Request for Deferral of the installation of 3 trees after a Notice of Completion for Phase 1B-1C.*

- The Director approves said request for deferral with the following conditions:

- As-builts for Phase 1A3 will be updated to reflect trees to be installed in Phase 1B-1C and Phase 1B-1C SIP plans to be updated to reflect these trees are part of the Phase 1B-1C SIP scope.
- The Director will retain adequate security equivalent to 100% of the cost of all deferred improvements until final signoff of the deferred work.
- Subdivider will coordinate final inspection with the City and resolve any required punchlist work.
- Subdivider will provide the full warranty for deferred work, equivalent to the warranty terms and requirements set forth in the PIA, commencing upon final signoff of deferred work.
- Vertical developer shall not request a Temporary Certification of Occupancy (TCO) for the fronting property nor shall Public Works sign-off on such TCO until the Subdivider has obtained a Notice of Completion or its equivalent for the deferred improvements.

#### **Request for Deferral No. 4**

***Request for Deferral of finalizing the Operations & Maintenance (O&M) responsibility matrix pursuant to the Tentative Map Condition of Approval CAO #1: “Prior to City issuing any street improvement or excavation permit for a discrete public improvement or facility or the Subdivider's submission of 100% improvement plans, whichever first occurs, Subdivider shall provide a Utility Acceptance Plan and Maintenance Matrix showing which facilities are intended to remain private and which will be offered for City acceptance as well as designating the responsible party for maintenance.” Request for deferral is for completion of O&M matrix that is otherwise required prior to issuance of a Street Improvement Permit and execution of a Public Improvement Agreement until final comments are provided by City Departments.***

- The Director conditionally approves said request for deferral, requiring said O&M matrix to be finalized prior to the Notice of Completion of the subject phase and requiring the PIA to be amended to include the O&M Matrix once finalized; the San Francisco City Attorney's Office has concurred.

Public Works does not grant any other exceptions or deferrals not previously approved or included in this Order.

#### **Attachments**

1. Attachment 1: Developer’s Request for Exceptions and Deferrals

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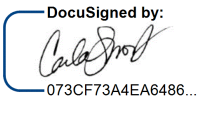
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Deputy Director and City Engineer

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Director of Public Works