

**BOARD of SUPERVISORS**



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**MEMORANDUM**

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Date: July 3, 2024  
To: Planning Department/Planning Commission  
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 240729  
Planning Code - 1896 Pacific Avenue - New Rooftop Floor Area or Building Volume on Noncomplying Structure

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- ☒ California Environmental Quality Act (CEQA) Determination  
(*California Public Resources Code, Sections 21000 et seq.*)
  - ☒ Ordinance / Resolution
  - ☐ Ballot Measure
- ☒ Amendment to the Planning Code, including the following Findings:  
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
  - ☒ General Plan    ☒ Planning Code, Section 101.1    ☒ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning  
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments  
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)  
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
  - ☐ Landmark (*Planning Code, Section 1004.3*)
  - ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
  - ☐ Mills Act Contract (*Government Code, Section 50280*)
  - ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at [john.carroll@sfgov.org](mailto:john.carroll@sfgov.org).

[Planning Code - 1896 Pacific Avenue - New Rooftop Floor Area or Building Volume on Noncomplying Structure]

**Ordinance amending the Planning Code to permit new floor area or building volume on the rooftop of a noncomplying structure located at 1896 Pacific Avenue, on Assessor's Parcel Block No. 0576, Lot Nos. 27-44; affirming the Planning Department's determination under the California Environmental Quality Act; making public necessity, convenience, and welfare findings under Planning Code, Section 302; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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. Environmental and Land Use Findings.

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

(b) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted 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

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

3 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
4 amendments will serve the public necessity, convenience, and welfare for the reasons set  
5 forth in in Planning Commission Resolution No. \_\_\_\_\_, and the Board adopts such  
6 reasons as its own. A copy of said resolution is on file with the Clerk of the Board of  
7 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.

8  
9 Section 2. Article 1.7 of the Planning Code is hereby amended by revising Section  
10 188, to read as follows:

11 **SEC. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS, ALTERATIONS,**  
12 **AND RECONSTRUCTION.**

13 (a) Within the limitations of this Article 1.7, and especially Sections 172 and 180  
14 hereof, a noncomplying structure as defined in Section 180 may be enlarged, altered, or  
15 relocated, or undergo a change or intensification of use in conformity with the use limitations  
16 of this Code, provided that with respect to such structure there is no increase in any  
17 discrepancy, or any new discrepancy, at any level of the structure, between existing  
18 conditions on the lot and the required standards for new construction set forth in this Code,  
19 and provided the remaining requirements of this Code are met.

20 \* \* \* \*

21 (h) Notwithstanding subsection (a) of this Section 188, a Roof Terrace Enclosure Project,  
22 defined as a project proposing the replacement of an existing rooftop terrace with new Gross Floor  
23 Area or building volume, may be permitted on a noncomplying structure, as defined in Planning Code  
24 Section 180, notwithstanding otherwise applicable height, floor area ratio, bulk limits, or residential  
25 open space requirements, as follows: at 1896 Pacific Avenue, Block 0576, lots 27 to 44, inclusive, a

Roof Terrace Enclosure Project may be permitted to replace and enclose a rooftop terrace with at least two perimeter walls. The rooftop terrace and perimeter walls shall have been in place on or before the effective date of the ordinance in Board of Supervisors File No. 240729, adding this subsection (h). A Roof Terrace Enclosure Project shall not exceed the maximum height of the existing perimeter walls, and shall not create more than 1,000 square feet of new Gross Floor Area or building volume.

Section 3. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

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

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By:                     /s/                      
AUDREY WILLIAMS PEARSON  
Deputy City Attorney

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## **LEGISLATIVE DIGEST**

[Planning Code - 1896 Pacific Avenue - New Rooftop Floor Area or Building Volume on Noncomplying Structure]

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### **Existing Law**

Currently, the height limit at 1896 Pacific Avenue (Assessor's Parcel Block Number 0576, Lots 27-44) is 80 feet. The existing building at 1896 Pacific Avenue, which is taller than 80 feet, is a non-conforming structure. Planning Code Section 188(a) prohibits the enlargement of a non-complying structure.

### **Amendments to Current Law**

This ordinance would allow the enclosure of an existing rooftop terrace at 1896 Pacific Avenue. Under a new exception to Planning Code Section 188, an existing rooftop terrace that is framed with at least two perimeter walls could be enclosed and add additional Gross Floor Area or building volume. The Rooftop Terrace Enclosure could not exceed more than 1000 square feet in Gross Floor Area.

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**Introduction Form**

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- ☒ 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- ☐ 2. Request for next printed agenda Without Reference to Committee.
- ☐ 3. Request for hearing on a subject matter at Committee.
- ☐ 4. Request for letter beginning : "Supervisor  inquiries"
- ☐ 5. City Attorney Request.
- ☐ 6. Call File No.  from Committee.
- ☐ 7. Budget Analyst request (attached written motion).
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Reactivate File No.
- ☐ 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- ☐ Small Business Commission      ☐ Youth Commission      ☐ Ethics Commission
- ☐ Planning Commission      ☐ Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Subject:

The text is listed:

Signature of Sponsoring Supervisor: 

For Clerk's Use Only