

BOARD of SUPERVISORS



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MEMORANDUM

Date: January 31, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240039
Grant of Non-Exclusive Easement - Midtown Lands LLC - Assessor's Parcel Block No. 2781, Lot No. 022

- 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.

1 [Grant of Non-Exclusive Easement - Midtown Lands LLC - Assessor's Parcel Block No. 2781,
2 Lot No. 022]

3 **Resolution approving and authorizing an Easement Agreement and Quitclaim between**
4 **the City and Midtown Lands LLC, fixing and perfecting the location and terms of an**
5 **easement reserved in a 1957 subdivision instrument, for vehicular and pedestrian**
6 **access and subsurface utilities within Assessor's Parcel Block No. 2781, Lot No. 022, a**
7 **City parcel located in the Twin Peaks neighborhood; adopting findings of consistency**
8 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1;**
9 **affirming the Planning Department's determination under the California Environmental**
10 **Quality Act; and to authorize the Director of Property to enter into amendments or**
11 **modifications to the Easement Agreement that do not materially increase the**
12 **obligations or liabilities to the City and are necessary to effectuate the purposes of the**
13 **Easement Agreement or this Resolution.**

14
15 WHEREAS, The City owns and the Recreation and Parks Department ("RPD") has
16 jurisdiction over 19 acres of undeveloped land across four parcels in the Twin Peaks
17 neighborhood (Supervisor District 7), commonly known as the "Interior Greenbelt;" the Interior
18 Greenbelt includes approximately 6,947 square feet of land located generally southeast of the
19 intersection of Palo Alto and Dellbrook Avenues in the Twin Peaks neighborhood; and

20 WHEREAS, The original subdivider of the area conveyed a portion of the Interior
21 Greenbelt to the City in 1957, and reserved a blanket access easement along and within the
22 Interior Greenbelt, from a parcel adjacent to the Interior Greenbelt identified as Assessor's
23 Parcel Block No. 2724, Lot No. 002 (the "Parcel") to Clarendon Avenue, which was the closest
24 street access point at that time; the 1957 deed contemplated that a more precise location of
25 the easement would be fixed at a later date, but the Parcel was never developed and the

1 precise easement location was not fixed; currently, the entire section of the Interior Greenbelt
2 from the Parcel to Clarendon Avenue is encumbered by the reservation of easement; the
3 Parcel does not have direct access to a public right-of-way without the existing easement over
4 the Interior Greenbelt; and

5 WHEREAS, The City staff and the Parcel owner have agreed to fix the location of the
6 easement as contemplated in the original deed, and to fully describe the rights and obligations
7 of the parties; the proposed easement agreement allows for vehicular and pedestrian access
8 as well as subsurface utilities, and imposes significant stewardship covenants on the Parcel
9 owner; a copy of the easement agreement is on file with the Clerk of the Board of Supervisors
10 in File No. 240039 (the "Easement Agreement"); and

11 WHEREAS, Since 1957, La Avanzada Street has been built, which can provide access
12 from La Avanzada Street straight across the Interior Greenbelt to the Parcel rather than all the
13 way through and down the Interior Greenbelt to Clarendon Avenue; the City and the Parcel
14 owner desire to fix and perfect the location of the easement to provide access from the Parcel
15 directly across the Interior Greenbelt to La Avanzada Street; as specified in the Easement
16 Agreement, the easement will encumber 2,500 square feet of the Interior Greenbelt rather
17 than 6,947 square feet, and the Parcel owner will quitclaim its interest in the remainder of the
18 Interior Greenbelt; and

19 WHEREAS, The Easement Agreement benefits the City by preserving far more of the
20 Interior Greenbelt as open space in its natural condition, eliminating the encumbrance of the
21 1957 deed over the Interior Greenbelt, and providing stewardship over a portion of the Interior
22 Greenbelt; this agreement also benefits the Parcel owner, by providing more direct and
23 efficient access to the Parcel from the street system, and more certainty with respect to the
24 terms and conditions of the easement; and

1 WHEREAS, The Parcel owner has agreed to significant perpetual open space
2 stewardship covenants for the Interior Greenbelt area within and adjacent to the easement
3 area, including complying with a certified arborist’s findings regarding necessary removal of
4 any dangerous and/or invasive trees within 150 feet of the easement area, replacing such
5 trees with RPD approved species, and maintaining newly planted trees; in addition, the Parcel
6 owner is required to remove dangerous and invasive plant species and underbrush within 50
7 feet of the easement area, replace such plants with RPD approved species, and maintain
8 newly planted plants; and

9 WHEREAS, On July 8, 2021, the Planning Department determined the project to be
10 exempt from the California Environmental Quality Act (“CEQA”, Pub. Resources, Code
11 Sections 21000 et seq.) pursuant to CEQA Guidelines, Section 15061(b)(3) and Chapter 31 of
12 the City’s Administrative Code (Planning Case No. 2021-006620 ENV), which determination is
13 on file with the Clerk of the Board of Supervisors in File No. _____, and incorporated
14 herein by reference; by letter dated April 28, 2023, the Planning Department found that the
15 project is consistent with the General Plan, and the eight priority policies of Planning Code,
16 Section 101.1 (Planning Case No. 2021-006620GPR), which letter is on file with the Clerk of
17 the Board of Supervisors in File No. 240039, and incorporated herein by reference; now,
18 therefore, be it

19 RESOLVED, This Board affirms the Planning Department’s determination under CEQA
20 and finds that the proposed project is consistent with the General Plan, and with Planning
21 Code, Section 101.1 for the reasons set forth in the General Plan Referral letter; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors finds that 1) the public interest
23 or necessity demands, or will not be inconvenienced by the transactions contemplated in the
24 Easement Agreement, 2) competitive bidding is impractical or impossible given that the
25 Easement Agreement is clarifying property rights as contemplated in the 1957 deed, and 3)

1 the Easement Agreement will further a proper public purpose by ensuring a larger parcel of
2 open space owned by the City, and providing valuable environmental stewardship; and, be it

3 FURTHER RESOLVED, That an appraisal isn't required by Administrative Code,
4 Section 23.3 because the Easement Agreement clarifies the terms of the 1957 reserved
5 easement, and is not a Conveyance as defined in Administrative Code, Section 23.2; and, be
6 it

7 FURTHER RESOLVED, That, in accordance with the recommendation of the General
8 Manager of RPD and the Director of Property, the Board of Supervisors approves the
9 Easement Agreement and the transactions contemplated thereby in substantially the form
10 presented to the Board, and authorizes the Director of Property to execute the Easement
11 Agreement and to accept the quitclaim deed of the remainder of the Interior Greenbelt upon
12 the closing in accordance with the terms and conditions of the Easement Agreement, and to
13 take any and all steps (including, but not limited to, the execution and delivery of any and all
14 certificates, agreements, notices, consents, escrow instructions, closing documents and other
15 instruments or documents) as the Director of Property, in consultation with the City Attorney,
16 deems necessary or appropriate in order to consummate the conveyances described in the
17 Easement Agreement, or otherwise to effectuate the purpose and intent of this Resolution,
18 such determination to be conclusively evidenced by the execution and delivery by the Director
19 of Property of any such documents; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
21 Property to enter into any amendments or modifications to the Easement Agreement that the
22 Director of Property determines, in consultation with the City Attorney and the General
23 Manager of the Recreation and Parks Department, are in the best interest of the City, do not
24 otherwise materially diminish the benefits to the City or materially increase the obligations or
25 liabilities of the City, are necessary or advisable to effectuate the purposes of the Easement

