

1 [Zoning – Ordinance amending Planning Code Section 309.1]

2 **Ordinance amending Planning Code Section 309.1 to allow a design review exception**
3 **for Downtown Residential districts permitting minor height measurement modifications**
4 **that could otherwise be modified as a Planned Unit Development pursuant to Section**
5 **304.**

6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are ~~*strikethrough italics Times New Roman*~~.

8
9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. Findings. The Board of Supervisors of the City and County of San
11 Francisco hereby find and determine that:

12 (a) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
13 ordinance will serve the public necessity, convenience and welfare, for the reasons set forth in
14 Planning Commission Resolution No. 17843, and incorporates such reasons by this
15 reference thereto. A copy of said resolution is on file with the Clerk of the Board of
16 Supervisors in File No. 090392.

17 (b) Pursuant to Planning Code Section 101.1, the Board of Supervisors finds that the
18 ordinance is consistent with the Priority Policies of Section 101.1(b) of the Planning Code and
19 with the General Plan and hereby incorporates a report containing those findings as if fully set
20 forth herein. A copy of said report is on file with the Clerk of the Board of Supervisors in File
21 No. 090392.

22 (c) The Planning Department concluded that the ordinance would result in no
23 physical impact on the environment and is therefore exempt from environmental review
24 pursuant to 15060(c)(2) of the CEQA Guidelines.
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1 (d) As part of the Eastern Neighborhoods Area Plans amendments to the Planning
2 Code, the Eastern Neighborhoods Mixed Use and DTR Districts were removed from Planning
3 Code Section 304 which permits the approval of modifications to Planning Code requirements
4 for Planned Unit Developments. Practical planning considerations, however, require that the
5 Planning Commission have the flexibility to approve minor height measurement modifications
6 in DTR Districts if such modifications would otherwise be permitted for a Planned Unit
7 Development pursuant to Section 304. This Planning Code amendment would correct the
8 Eastern Neighborhoods Area Plan amendments to include language in Section 309.1
9 permitting qualifying minor PUD height measurement modifications in DTR Districts.

10 Section 2. The San Francisco Planning Code is hereby amended by amending Section
11 309.1, to read as follows:

12 **SEC. 309.1. PERMIT REVIEW IN DOWNTOWN RESIDENTIAL DISTRICTS.**

13 The provisions and procedures set forth in this Section shall govern the review of
14 project authorization and building and site permit applications for the construction or
15 substantial alteration of structures in Downtown Residential districts, the granting of
16 exceptions to requirements of this Code, and the imposition of modifications necessary to
17 achieve the objectives and policies of the General Plan and the purposes of this Code as
18 provided for in Section 827 and elsewhere. When any action authorized by this Section is
19 taken, any determination with respect to the proposed project required or authorized pursuant
20 to CEQA may also be considered.

21 (a) Design Review.

22 (1) In addition to the standard permit review process, the design of projects greater
23 than 50,000 gross square feet or 85 feet in height shall be subject to design review and
24 approval by Department staff. A detailed design review will be initiated by Department staff
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1 working with the project sponsor, at the time an application for 309.1 review or building permit
2 is filed, and may take place in advance of filing a building permit application. This
3 comprehensive review shall resolve issues related to the project's design, including the
4 following:

5 (A) Overall building massing and scale;

6 (B) Architectural treatments, facade design and building materials;

7 (C) The design of lower floors, including building setback areas, townhouses, entries
8 and parking and loading access;

9 (D) On sloping sites, parking provided above ground pursuant to Section 827(7)(A);

10 (E) The provision of required open space, both on- and off-site;

11 (F) Streetscape and other public improvements, including tree planting, street
12 furniture, and lighting;

13 (G) Circulation, including streets, alleys and mid-block pedestrian pathways

14 (H) Other changes necessary to bring a project into conformance with the Rincon Hill
15 Plan and other elements and area plans of the General Plan.

16 (2) If the project sponsor opposes project modifications and conditions recommended
17 by the Director of Planning pursuant to the design review, the Director shall prepare a report
18 of recommended modifications which shall be presented to the Planning Commission for a
19 hearing pursuant to Subsection (e) and which shall be available to the public upon mail
20 notification of said hearing.

21 (b) Exceptions.

22 (1) Exceptions to the following provisions of this Code may be granted as provided for
23 below:

1 (A) Exceptions to the tower separation requirements of Section 270(e), pursuant to
2 the criteria described in Section 270(e)(3) and 270(e)(4).

3 (B) Provision for exceeding an accessory residential parking ratio of 0.5 off-street car
4 parking spaces per dwelling unit, up to a maximum of one car parking space per dwelling unit,
5 pursuant to the criteria described in Section 151.1.

6 (C) Exceptions to the lot coverage requirements of Section 827(d)(2) for conversions
7 of existing non-residential structures to residential use.

8 (D) Reductions in the dwelling unit exposure requirements of Section 140.

9 (E) Allowing parking access from Folsom Street, pursuant to 827(d)(7) and 155(r).

10 (F) Reduction of required on-site residential open space of 36 square feet per unit
11 described in Section 827(e)(2)(A) to create additional off-site publicly-accessible open space
12 and superior building design.

13 (G) Design, location, and size of publicly-accessible open space as allowed by
14 Section 827(e) and equivalence of proposed publicly-accessible open space in size and
15 quality with required on-site open space.

16 (H) Modifications to the required upper story setback above a height of 45 feet on the
17 north side of mid-block pedestrian pathways as allowed in Section 827(d)(4)(C)(i).

18 (I) On development lots larger than 1/2-acre, minor deviations from the provisions for
19 measurement of height in Sections 260 of the Code as otherwise provided in Section 304(d)(6), in cases
20 where the Planning Commission finds that such minor measurement modification is necessary for a
21 project of outstanding overall design, complementary to the design of the surrounding area, and
22 necessary to meet the intent and policies of the relevant area plan of the General Plan.

23 (c) Hearing and Determination on Design Modifications and Applications for
24 Exceptions.

1 (1) Hearing. The Planning Commission shall hold a public hearing for all projects
2 greater than 50,000 gross square feet, for all projects 85 feet in height or greater, and for
3 applications that require exceptions as provided in Subsection (b).

4 (2) Notice of Hearing. Notice of such hearing shall be mailed not less than 10 days
5 prior to the date of the hearing to the project applicant, to property owners within 300 feet of
6 the project that is the subject of the application, using for this purpose the names and
7 addresses as shown on the citywide Assessment Roll in the Assessor's Office, and to any
8 person who has requested such notice. Such notice shall also be published at least once in
9 an official newspaper of general circulation at least 10 days prior to the date of the hearing.
10 The notice shall state that the written recommendation of the Director of Planning regarding
11 design modifications to the project and regarding any requests for exceptions is available for
12 public review at the office of the Planning Department.

13 (3) Director's Recommendations on Modifications and Exceptions. At the hearing, the
14 Director of Planning shall review for the Commission key urban design issues related to the
15 project based on the design review pursuant to Subsection (a) and recommend to the
16 Commission modifications to the project and conditions for approval as necessary. The
17 Director shall also make recommendations to the Commission on any proposed exceptions
18 pursuant to Subsection (b).

19 (4) Decision and Imposition of Conditions. The Commission may, after public hearing
20 and, after making appropriate findings, approve, disapprove or approve subject to conditions,
21 the project and any applications for exception. In addition to the requirements set forth in this
22 Code, additional requirements, modifications, and limitations may be imposed on a proposed
23 project, through the imposition of conditions, in order to achieve the objectives and policies of
24 the General Plan or the purposes of this Code, including any modifications recommended by
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1 the Planning Director arising from design review. If pursuant to the provisions of this Section,
2 the Planning Commission determines that conditions should be imposed on the approval of a
3 building or site permit application or an application for exceptions to conform the building to
4 the standards and intent of the Rincon Hill Plan and other elements of the General Plan and
5 the applicant agrees to comply, the Commission may approve the application subject to those
6 conditions.

7 (5) Appeal. The decision of the Planning Commission on the granting of any
8 exceptions pursuant to Subsection (b) may be appealed to the Board of Appeals by any
9 person aggrieved within 15 days after the date of the decision by filing a written notice of
10 appeal with that body, setting forth wherein it is alleged that there was an error in the
11 interpretation of the provisions of this Code or abuse of discretion on the part of the Planning
12 Commission.

13 (6) Decision on Appeal. Upon the hearing of an appeal, the Board of Appeals may,
14 subject to the same limitations as are placed on the Planning Commission by Charter or by
15 this Code, approve, disapprove or modify the decision appealed from the Planning
16 Commission. If the determination of the Board differs from that of the Commission it shall, in a
17 written decision, specify the error in interpretation or abuse of discretion on the part of the
18 Commission and shall specify in the findings, as part of the written decision, the facts relied
19 upon in arriving at its determination.

20 (7) Discretionary Review. No requests for discretionary review, other than through the
21 procedures set forth in this Subsection, shall be accepted by the Planning Department or
22 heard by the Planning Commission for permits in a DTR district.

1 (d) Change of Conditions. Authorization of a change in any condition previously
2 imposed pursuant to this Section shall require an application for a change in conditions, which
3 application shall be subject to the procedures set forth in this Section.

4 (e) Unbuilt Tower Projects; Progress Requirement and Approval Revocation.

5 (1) Construction of any development in an "R" bulk district containing a building taller
6 than 110 feet (herein referred to as a "tower project") shall commence within 24 months of the
7 date the tower project is first approved by the Planning Commission or Board of Appeals
8 pursuant to the provisions of this Section. For tower projects that contain more than one tower
9 structure, each tower structure shall be considered as a separate phase of development, with
10 a requirement for commencement of construction for each subsequent tower phase of 18
11 months beginning after the Certificate of Final Completion and Occupancy is issued on the
12 previous tower phase. Failure to begin construction work within that period, or thereafter to
13 carry the development diligently to completion, shall be grounds for the Planning Commission
14 to revoke approval of the tower project or phase. Neither the Department of Public Works nor
15 the Board of Permit Appeals shall grant any extension of time inconsistent with the
16 requirements of this Subsection (e)(1). For the purposes of this Subsection, "carry the
17 development diligently to completion" shall mean continuous construction work without
18 significant stoppage toward the completion of a tower structure beyond any site clearance,
19 grading, excavation, or demolition of existing buildings on the project site.

20 (2) The Department of Building Inspection shall notify the Planning Department in
21 writing of its approval for issuance and issuance of a site or building permit for any tower
22 project and of the revocation, cancellation, or expiration of any such permit.

23 (3) At the first regularly scheduled Planning Commission meeting after the time period
24 described in Subsection (e)(1) or this Subsection (e)(3) has elapsed for any tower project or
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1 tower phase, the Planning Commission shall hold a hearing requiring the tower project
2 sponsor to report on the construction progress of the subject tower project or phase. If the
3 Commission finds that the tower project or phase does not meet the progress requirement of
4 Subsection (e)(1), the Commission may revoke or extend, up to a maximum of 12 months for
5 each extension, the approvals for the tower project or phase.

6 (4) Appeals of Planning Commission decisions pursuant to this Subsection (e) shall
7 be conducted pursuant to the procedures of Subsections (c)(5) and (c)(6).

8
9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By:


12 Kate Herrmann Stacy
13 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 090392

Date Passed:

Ordinance amending Section 309.1 to the Planning Code to allow a design review exception for Downtown Residential districts permitting minor height measurement modifications that could otherwise be modified as a Planned Unit Development pursuant to Section 304.

June 16, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 8 - Avalos, Campos, Chiu, Chu, Dufty, Mar, Maxwell, Mirkarimi

Noes: 1 - Daly

Absent: 1 - Alioto-Pier

Excused: 1 - Elsbernd

June 23, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

Noes: 1 - Daly

File No. 090392

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on June 23, 2009 by the Board of Supervisors of the City and County of San Francisco.

7-2-09

Date Approved

Angela Calvillo

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

Mayor Gavin Newsom