

File No. 190702 Committee Item No. 2
 Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS
 AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date July 29, 2019
 Board of Supervisors Meeting Date September 3, 2019
 Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>HPC Reso No. 1035 032019</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>PLN Reso No. 20435 042519</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>PLN Executive Summary 042519</u> |
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Completed by: Erica Major Date July 25, 2019
 Completed by: Erica Major Date 8/27/2019

1 [Planning Code - New Rooftop Floor Area or Building Volume on Noncomplying Structure
2 Designated as a Significant Building - Assessor's Parcel Block No. 37075 Third Street]

3 **Ordinance amending the Planning Code to permit new floor area or building volume on**
4 **the rooftop of a noncomplying structure that is designated as a Significant Building**
5 **under Planning Code, Article 11, located on Assessor's Parcel Block No. 3707 (5 Third**
6 **Street), provided that the rooftop has an existing parapet at least 17 feet in height along**
7 **the primary building frontage; affirming the Planning Department's determination**
8 **under the California Environmental Quality Act; making findings of consistency with**
9 **the General Plan, and the eight priority policies of Planning Code, Section 101.1; and**
10 **making findings of public necessity, convenience, and welfare under Planning Code,**
11 **Section 302.**

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

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

20 Section 1. Findings.

21 (a) The Planning Department has determined that the actions contemplated in this
22 ordinance comply with the California Environmental Quality Act (California Public Resources
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
24 Supervisors in File No. 190702 and is incorporated herein by reference. The Board affirms
25 this determination.

1 (b) On April 25, 2019, the Planning Commission, in Resolution No. 20435, adopted
2 findings that the actions contemplated in this ordinance are consistent, on balance, with the
3 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
4 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
5 Board of Supervisors in File No. 190702, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, the Board finds that these Planning Code
7 amendments will serve the public necessity, convenience, and welfare for the reasons set
8 forth in Planning Commission Resolution No. 20435 and the Board incorporates such reasons
9 herein by reference, as though fully set forth herein. A copy of Planning Commission
10 Resolution No. 20435 is on file with the Clerk of the Board of Supervisors in File No. 190702.

11
12 Section 2. The Planning Code is hereby amended by revising Section 188, to read as
13 follows:

14 **SECTION. 188. NONCOMPLYING STRUCTURES: ENLARGEMENTS,**
15 **ALTERATIONS, AND RECONSTRUCTION.**

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

23 * * * *

24 (g) ~~Notwithstanding subsection (a) of this Section 188, Terrace Infill, defined as new~~
25 ~~floor area or building volume located within an existing terrace that is already framed by no~~

1 less than one wall, may be permitted to be enclosed on a noncomplying structure, as defined
2 in Planning Code Section 180, that is designated as a Significant Building under Article 11 of
3 this Code, notwithstanding otherwise applicable height, floor area ratio and bulk limits, where
4 the noncomplying structure is designated as a Significant Building under Article 11 of this
5 Code as follows: on Assessor's Block 0316, Terrace Infill may be permitted to be enclosed
6 within an existing terrace that is already framed by no less than one wall; and is located on
7 Assessor's Block 03163707, Terrace Infill may be permitted within an existing rooftop terrace
8 that is behind a parapet at least 17 feet in height along the primary building frontage. An
9 application for Terrace Infill shall be considered a Major Alteration under Section 1111.1 of
10 this Code and shall be subject to the applicable provisions of Article 11 of this Code, including
11 but not limited to the requirement to apply for and procure a Permit to Alter. As part of the
12 Historic Preservation Commission's consideration of such application, in addition to other
13 requirements set forth in this Code, the facts presented must establish that the Terrace Infill
14 (1) would not be visible from the primary building frontage, and (2) would not exceed 1,500
15 net new square feet per building. Unless the Board of Supervisors adopts an ordinance
16 extending the term of this Subsection 188(g), it shall expire by operation of law on January
17 31, 201928. After that date, the City Attorney shall cause this Subsection 188(g) to be
18 removed from the Planning Code.

19 (g) Notwithstanding subsection (a) of this Section 188, Terrace Infill, defined as new
20 floor area or building volume located within an existing terrace may be permitted on a
21 noncomplying structure, as defined in Planning Code Section 180, that is designated as a
22 Significant Building under Article 11 of this Code, notwithstanding otherwise applicable height,
23 floor area ratio, and bulk limits, as follows: on Assessor's Block 0316, Terrace Infill may be
24 permitted to be enclosed within an existing terrace that is already framed by no less than one
25 wall; and on Assessor's Block 3707, Terrace Infill may be permitted within an existing rooftop

1 terrace that is behind a parapet at least 17 feet in height along the primary building frontage.
2 An application for Terrace Infill shall be considered a Major Alteration under Section 1111.1 of
3 this Code and shall be subject to the applicable provisions of Article 11 of this Code, including
4 but not limited to the requirement to apply for and procure a Permit to Alter. As part of the
5 Historic Preservation Commission's consideration of such application, in addition to other
6 requirements set forth in this Code, the facts presented must establish that the Terrace Infill
7 (1) would not be visible from the primary building frontage, and (2) would not exceed 1,500
8 net new square feet per building. Unless the Board of Supervisors adopts an ordinance
9 extending the term of this subsection (g), it shall expire by operation of law on January 31,
10 2028. After that date, the City Attorney shall cause this subsection to be removed from the
11 Planning Code.

12
13 Section 3. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor's veto of the ordinance.

17
18 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
22 additions, and Board amendment deletions in accordance with the "Note" that appears under

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the official title of the ordinance.

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

By: 
CHRISTOPHER T. TOM
Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee, 7/29/2019)

[Planning Code - New Rooftop Floor Area or Building Volume on Noncomplying Structure Designated as a Significant Building - Assessor's Parcel Block No. 3707]

Ordinance amending the Planning Code to permit new floor area or building volume on the rooftop of a noncomplying structure that is designated as a Significant Building under Planning Code, Article 11, and located on Assessor's Parcel Block No. 3707, provided that the rooftop has an existing parapet at least 17 feet in height along the primary building frontage; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Prior to the expiration of Planning Code Section 188, subsection (g), on January 31, 2019, the Planning Code authorized "Terrace Infill," defined as floor area or building volume located within an existing terrace that is already framed by a wall, to be permitted on a noncomplying structure designated a Significant Building under Article 11 of the Planning Code and located on Assessor's Block 0316 (bounded by Geary, Mason, O'Farrell, and Taylor Streets). Prior to the expiration of Planning Code Section 188, subsection (g), applications for Terrace Infill were considered a Major Alteration under Planning Code Section 1111.1 and were required to comply with the applicable provisions of Article 11 of the Planning Code, including the requirement of procuring a Permit to Alter and establishing that the proposed Terrace Infill (1) would not be visible from the primary building frontage, and (2) would not exceed 1,500 net new square feet per building.

Amendments to Current Law

This legislation would reauthorize the City to permit Terrace Infill under Planning Code Section 188, subsection (g), and would include revisions to the prior Planning Code Section 188, subsection (g), to clarify that "Terrace Infill" refers to "new" floor area or building volume; to include new locations, Assessor's Block 3707 (bounded by Market, Second, Mission, and Third Streets), for which Terrace Infill may be permitted within an existing rooftop terrace that is behind a parapet at least 17 feet in height along the primary building frontage; and to authorize the consideration of applications for Terrace Infill for Assessor's Blocks 0316 and 3707 until January 31, 2028.

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SAN FRANCISCO PLANNING DEPARTMENT

Historic Preservation Commission Resolution No. 1035 HEARING DATE MARCH 20, 2019

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name: Amendments Relating to Terrace Infill on Noncomplying Structures
Case Number: 2016-007303PCA [Board File No. TBD]
Initiated by: Todd Chapman, Bespoke Hospitality, LLC
 c/o JMA Ventures, LLC
 460 Bush Street
 San Francisco, CA 94108

Staff Contact: Seema Adina, Current Planning
 Seema.adina@sfgov.org, 415-575-8722

Reviewed by: Aaron D Starr, Manager of Legislative Affairs
 aaron.starr@sfgov.org, 415-558-6362

RESOLUTION RECOMMENDING APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO PERMIT NEW FLOOR AREA OR BUILDING VOLUME ON THE ROOFTOP OF A NONCOMPLYING STRUCTURE THAT IS DESIGNATED AS A SIGNIFICANT BUILDING UNDER PLANNING CODE ARTICLE 11 AND LOCATED ON ASSESSOR'S BLOCK NO. 3707, PROVIDED THAT THE ROOFTOP HAS AN EXISTING PARAPET AT LEAST 17 FEET IN HEIGHT ALONG THE PRIMARY BUILDING FRONTAGE; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on April 5, 2018 the Project Sponsor submitted a proposed Ordinance under which would amend Section 188(g) of the Planning Code to permit new floor area or building volume on the rooftop of a noncomplying structure that is designated as a Significant Building under Planning Code Article 11 and located on Assessor's Block No. 3707, provided that the rooftop has an existing parapet at least 17 feet in height along the primary building frontage;

WHEREAS, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Project was prepared and published for public review on August 22, 2018; and

WHEREAS, the Draft IS/MND was available for public comment until September 11, 2018; and

WHEREAS, on September 11, 2018, two separate appellants, Rachel Mansfield-Howlett of Provencher & Flatt, LLP, on behalf of Friends of Hearst Building, and Yasin Salma, filed letters appealing the determination to issue a MND. Both appellants provided supplemental appeal letters. The supplemental letter and material from friends of Hearst Building was received November 15, 2018. Accordingly, the

Department requested a continuance in order to assess the information and prepare a supplemental response, which the Planning Commission granted; and

WHEREAS, on February 14, 2019, the Planning Department reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

WHEREAS, the Planning Department found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department of City Planning, and that the summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31; and

WHEREAS, the Planning Department, Jonas Ionin, is the custodian of records, located in File No. 2016-007303, at 1650 Mission Street, Fourth Floor, San Francisco, California; and

WHEREAS, the Planning Department prepared a Mitigation Monitoring and Reporting program (MMRP), which material was made available to the public and this Commission for this Commission's review, consideration and action; now therefore, be it

WHEREAS, The Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on March 20, 2019; and,

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

WHEREAS, the Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Commission hereby recommends **approval** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that the Ordinance fosters the preservation of a historic structure, ensures the work will not be visible from a primary façade, and will be done in accordance with the Secretary of Interior's Standards.
2. The Commission finds that the Ordinance will help facilitate the rehabilitation and reuse of a historic resource and would increase the public access of the historic building and the New Montgomery-Mission-2nd Street Conservation District as a whole.
3. **General Plan Compliance.** The proposed Ordinance and the Commission is consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance will facilitate the establishment of a retail hotel use that provides net benefits in the form of tourism to the city and commercial activity associated with visiting guests to San Francisco. A rooftop lounge and event space will be open to the general public, allowing both local residents and visitors to enjoy the rehabilitated historic building and its amenities. Any potential undesirable consequences may be addressed through existing regulatory controls.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance facilitates new commercial activity along the Market Street corridor in the form of visiting guests for both work and pleasure, who create activity downtown both during and outside of regular

business hours. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it brings more people into the area to work, shop, dine and recreate. The project will preserve and rehabilitate a historic resource identified as a Significant Building, which adds to the cultural environment of the city. This enhances San Francisco as a location for firms.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 2

CONSERVATION OF RESOURCES WHICH PROVIDES A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

THE DOWNTOWN PLAN

OBJECTIVE 12

CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

Policy 12.1

Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 12.2

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

Because of its limited scope and strong review requirements, the proposed Ordinance is consistent with the above Objectives and Policies in the Urban Design Element and the Downtown Plan; it will allow for a change to a Significant Building per Article 11 of the Planning Code, while ensuring the preservation of its historic features and not weakening its original character.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:
 1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking. The loading area will be on a secondary street with little traffic and hotel guests arriving by car can take advantage of valet service.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings. The project proposes rehabilitation of the subject property according to both local and national standards.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

5. **Planning Code Section 302 Findings.** The Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

Resolution No. 1035
March 20, 2019

CASE NO. 2016-007303PCA
Terrace Infill on Noncomplying Structures

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Planning Commission and Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on March 20, 2019.



Jonas P. Ionin
Commission Secretary

AYES: Black, Hyland, Johnck, Matsuda, Pearlman, Wolfram

NOES: None

ABSENT: Johns

ADOPTED: March 20, 2019



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 20435

HEARING DATE APRIL 25, 2019

1650 Mission St.
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San Francisco,
CA 94103-2479

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Staff Contact: Seema Adina, Current Planning
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Reviewed by: Aaron D Starr, Manager of Legislative Affairs
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WHEREAS, on April 5, 2018 the Project Sponsor submitted a proposed Ordinance under which would amend Section 188(g) of the Planning Code to permit new floor area or building volume on the rooftop of a noncomplying structure that is designated as a Significant Building under Planning Code Article 11 and located on Assessor's Block No. 3707, provided that the rooftop has an existing parapet at least 17 feet in height along the primary building frontage;

WHEREAS, a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Project was prepared and published for public review on August 22, 2018; and

WHEREAS, the Draft IS/MND was available for public comment until September 11, 2018; and

WHEREAS, on September 11, 2018, two separate appellants, Rachel Mansfield-Howlett of Provencher & Platt, LLP, on behalf of Friends of Hearst Building, and Yasin Salma, filed letters appealing the determination to issue a MND. Both appellants provided supplemental appeal letters. The supplemental letter and material from friends of Hearst Building was received November 15, 2018. Accordingly, the

Department requested a continuance in order to assess the information and prepare a supplemental response, which the Planning Commission granted; and

WHEREAS, on February 14, 2019, the Planning Department reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

WHEREAS, the Planning Department found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department of City Planning, and that the summary of comments and responses contained no significant revisions to the Draft IS/MND, and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31; and

WHEREAS, the Planning Department, Jonas Ionin, is the custodian of records, located in File No. 2016-007303, at 1650 Mission Street, Fourth Floor, San Francisco, California; and

WHEREAS, the Planning Department prepared a Mitigation Monitoring and Reporting program (MMRP), which material was made available to the public and this Commission for this Commission's review, consideration and action; now therefore, be it

WHEREAS, The Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on March 20, 2019, and recommended approval to the Planning Commission and Board of Supervisors; and,

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on April 25, 2019; and,

WHEREAS, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, the Commission has reviewed the proposed Ordinance; and

WHEREAS, the Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Commission hereby recommends approval of the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The Commission finds that the Ordinance fosters the preservation of a historic structure, ensures the work will not be visible from a primary façade, and will be done in accordance with the Secretary of Interior's Standards.
2. The Commission finds that the Ordinance will help facilitate the rehabilitation and reuse of a historic resource and would increase the public access of the historic building and the New Montgomery-Mission-2nd Street Conservation District as a whole.
3. **General Plan Compliance.** The proposed Ordinance and the Commission is consistent with the following Objectives and Policies of the General Plan:

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OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

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Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The proposed Ordinance will facilitate the establishment of a retail hotel use that provides net benefits in the form of tourism to the city and commercial activity associated with visiting guests to San Francisco. A rooftop lounge and event space will be open to the general public, allowing both local residents and visitors to enjoy the rehabilitated historic building and its amenities. Any potential undesirable consequences may be addressed through existing regulatory controls.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

Policy 2.3

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The proposed Ordinance allows new commercial activity along the Market Street corridor in the form of visiting guests for both work and pleasure, who create activity downtown both during and outside of

regular business hours. This added commercial activity will help maintain a favorable social and cultural climate in San Francisco as it brings more people into the area to work, shop, dine and recreate. The project will preserve and rehabilitate a historic resource identified as a Significant Building, which adds to the cultural environment of the city. This enhances San Francisco as a location for firms.

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Policy 2.4

Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

Policy 2.5

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

THE DOWNTOWN PLAN

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Policy 12.2

Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

Because of its limited scope and strong review requirements, the proposed Ordinance is consistent with the above Objectives and Policies in the Urban Design Element and the Downtown Plan; it will allow for a change to a Significant Building per Article 11 of the Planning Code, while ensuring the preservation of its historic features and not weakening its original character.

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:
 1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking. The loading area will be on a secondary street with little traffic and hotel guests arriving by car can take advantage of valet service.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings. The project proposes rehabilitation of the subject property according to both local and national standards.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

Resolution No. 20435
April 25, 2019

CASE NO. 2016-007303PCA
Terrace infill on Noncomplying Structures

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on April 25, 2019.



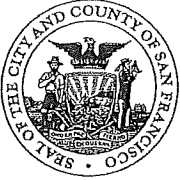
Jonas P. Ionin
Commission Secretary

AYES: Hillis, Johnson, Melgar, Moore, Richards

NOES: Koppel

ABSENT: None

ADOPTED: April 25, 2019



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment, Downtown Project & Conditional Use Authorizations

Hearing Date: April 25, 2019

CONTINUED FROM: MARCH 14, 2019

Record No.: 2016-007303PCADNXCUA
Project Address: 5 Third Street
Zoning: C-3-O (Downtown-Office) Zoning District
120-X Height and Bulk District
Block/Lot: 3707/057
Project Sponsor: Caroline Guibert Chase
Coblentz Patch Duffy & Bass LLP
1 Montgomery Street, Suite 3000
San Francisco, CA 94104
Staff Contact: Seema Adina – (415) 575-8722
seema.adina@sfgov.org
Recommendation: Approval with Conditions

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The Project is a rehabilitation of the existing 13-story 161,108 square foot building and conversion of approximately 119,237 square feet of office use to a 170-room hotel on the second through twelfth floors as well as the creation of 964 square feet of net new floor area. Approximately 5,920 square feet of office use will remain on the second and third floors, with approximately 11,393 square feet of retail space maintained on the basement and ground floors. The historic lobby will be retained and a new hotel entrance will be created on Stevenson Street. The Project includes a lightwell infill on the seventh and eighth floors (not visible from the public right-of-way), as well as interior alterations. While the building envelope will not change on the southern structure (17-29 Third Street), interior alterations would create a two-story lobby entrance that connects to the rest of the Project Site. Portions of the existing penthouse structures on the 13th floor would be demolished, while new mechanical and elevator penthouses are proposed at a lower height, bringing the building into closer conformity with the existing 120-foot height limit. In addition, a roof deck and event space that are fully screened by the existing parapet are proposed. The Project includes a Planning Code Text Amendment of Section 188(g) to allow for the terrace infill to create new floor area above the height limit at this location. The Ordinance would allow for the Terrace Infill at this location providing greater public access to the Hearst Building and the surrounding Montgomery-Mission-Second Street Conservation District as a whole. The Hearst Building is designated as a Significant Building: Category 1 under Article 11.

REQUIRED COMMISSION ACTION

In order for the Project to proceed, the Commission must grant a Conditional Use Authorization to establish hotel use, pursuant to Planning Code Sections 210.2 and 303.

The Commission must also grant a Downtown Project Authorization, pursuant to Planning Code Section 309, with an exception to Off-Street Loading per Planning Code Section 161(e) for off-street loading.

The Commission must also approve the Planning Code Text Amendment to Section 188(g) that would allow new floor area on an existing noncomplying structure at this location.

ISSUES AND OTHER CONSIDERATIONS

- **Public Comment & Outreach.** To date, the Department has not received any public correspondence. However, the Department is aware of concerns regarding the partial demolition of the penthouse structure and impacts to the owner of the adjacent parking structure.
- **Historic Preservation Commission.** In its review of the Permit to Alter, the Historic Preservation Commission approved the project with conditions to include an interpretative plan for the property. This interpretative plan is to be reviewed and approved by Staff and implemented in the completed project.
- **Hotel Use.** The Project proposes a 170-room hotel situated in the Financial District neighborhood, while maintaining basement and ground floor retail. The Project is necessary and desirable use at this location due to its proximity to several public transportation options as well as tourist and business destinations such as Union Square and the Moscone Center.

ENVIRONMENTAL REVIEW

On August 22, 2018 the Planning Department issued a Notice of Availability and Intent to Adopt a Mitigated Negative Declaration and published a Preliminary Mitigated Negative Declaration (PMND) for the project that included a Mitigation Monitoring and Reporting Program (MMRP) which is included as a Condition of Approval for the project and Exhibit C. The comment period for the PMND expired on September 11, 2018, and two appeals were filed. On February 14, 2019, the Planning Commission found the Mitigated Negative Declaration (MND) reflected the independent analysis and judgment of the Planning Department and affirmed the decision to issue an MND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31. The Final Mitigated Negative Declaration was issued on March 5, 2019 and is available online at <https://sfplanning.org/environmental-review-documents>. The Planning Department, Jonas Ionin, is the custodian of records, located in File No. 2016-007303ENV, at 1650 Mission Street, San Francisco, California.

BASIS FOR RECOMMENDATION

The Department finds that the Project is, on balance, consistent with the Downtown Area Plan and the Objectives and Policies of the General Plan. The Project would adaptively reuse the historic Hearst Building with hotel use. The Project would also provide greater public access to the historic building through its rehabilitation and expansion of retail use. The Department also finds the project to be necessary, desirable,

and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity.

ATTACHMENTS:

- Draft Resolution – Planning Code Text Amendment
- Draft Ordinance – Planning Code Text Amendment
- Draft Motion – Downtown Authorization with Conditions of Approval
- Draft Motion – Conditional Use Authorization with Conditions of Approval
- Exhibit B – Plans and Renderings
- Exhibit C – Environmental Determination and Mitigation Monitoring and Reporting Program
- Exhibit D – Maps and Context Photos
- Exhibit E – First Source Hiring Affidavit



SAN FRANCISCO PLANNING DEPARTMENT

May 23, 2019

Ms. Angela Calvillo, Clerk
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2016-007303PCA:
5 Third Street - Hearst Building
Board File No. TBD
Planning Commission Recommendation: Approval

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

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415.558.6409

Planning
Information:
415.558.6377

Dear Ms. Calvillo,

On April 25, 2019, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by the Project Sponsor that would amend Planning Code Section 188(g). At the hearing the Planning Commission recommended approval.

On February 14, 2019, the Planning Commission found the Mitigated Negative Declaration (MND) reflected the independent analysis and judgment of the Planning Department and affirmed the decision to issue an MND for the proposed amendment in compliance with CEQA, the CEQA Guidelines and Chapter 31. The Final Mitigated Negative Declaration was issued on March 5, 2019 and is available online at <https://sfplanning.org/environmental-review-documents>.

Please find attached documents relating to the actions of the Commission. The signed redlined version of the ordinance along with two copies will be dropped off at your office following this transmittal. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr", with a long horizontal flourish extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc:
Christopher T. Tom, Deputy City Attorney
Lee Hepner, Aide to Supervisor Peskin

www.sfplanning.org

Transmittal Materials

CASE NO. 2016-007303PCA
5 Third Street - Hearst Building

Abi Rivamonte Messa, Aide to Supervisor Haney
Erica Major, Office of the Clerk of the Board

Attachments :

Historic Preservation Commission Resolution

Planning Commission Resolution

Planning Department Executive Summary

191707

From: Cynthia Gómez <cgomez@unitehere2.org>
Sent: Friday, July 26, 2019 11:11 AM
To: Peskin, Aaron (BOS); Haney, Matt (BOS); asafai@sfgov.org
Cc: Major, Erica (BOS); David Noyola
Subject: Support letter for Hearst Building (at Land Use Committee 7/29)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Supervisors Peskin, Haney, and Safai,

This letter is in support of the proposed hotel project at 5 Third Street, also known as the Hearst Building. The project sponsor, JMA, has a longstanding collaborative relationship with Local 2, and has made a proactive commitment that all hotel projects that they develop in this city will come with a guarantee of good-quality jobs.

Hotel developers have historically supported the creation of good quality jobs by agreeing to remain neutral and present no encumbrances to efforts by their employees to form a union. These agreements represent a double win for our community – they ensure that jobs created are good quality jobs, and they also guarantee that hotel developments are free from costly labor disputes.

In addition to their collaborative work with our union for the staffing jobs at the hotel, the developer has also signed an agreement which ensures quality jobs for the construction of the hotel. Their commitment should serve as a model for other developers who seek to contribute to this vital industry for our city.

Please feel free to reach out to me if you have any questions.

Best,

—
Cynthia Gómez
Senior Research Analyst
UNITE/HERE, Local 2
209 Golden Gate Avenue
San Francisco, CA 94102
cgomez@unitehere2.org
415.864.8770, ext. 763

