

BOARD of SUPERVISORS



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MEMORANDUM

Date: May 12, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230540
Planning Code, Zoning Map - Mission and 9th Street Special Use District

- ☐ 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 Erica Major at Erica.Major@sfgov.org.

[Planning Code, Zoning Map - Mission and 9th Street Special Use District]

Ordinance re-adopting the former Planning Code section and Zoning Map designation creating the Mission and 9th Street Special Use District (SUD) at 1270 Mission Street, located at Assessor's Parcel Block No. 3701, Lot Nos. 20 and 21, in the area generally bounded by Mission Street on the south, Laskie Street on the east, Assessor's Parcel Block No. 3701, Lot Nos. 22, 23, and 24 on the west, and Assessor's Parcel Block No. 3701, Lot No. 66 to the north; changing the height limit on Assessor's Parcel Block No. 3701, Lot Nos. 20 and 21, within the SUD, from 120-X to 200-X; 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 convenience, necessity, and welfare under Planning Code, Section 302.

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. General Findings

(a) In 2017, in Ordinance Nos. 252-16 and 4-17, the City amended the San Francisco General Plan, Planning Code, and Zoning Map to create the Mission and 9th Street Special Use District, in the area generally bounded by Mission Street on the south, Laskie Street on the east, Assessor's Block 3701, Lots 22, 23 and 24 on the west, and Assessor's Block 3701,

1 Lot 66 to the north. The Mission and 9th Street Special Use District allowed for a mixed-use
2 development project at 1270 Mission Street. The 1270 Mission Street project, located on the
3 Mission Street transit corridor, included ground floor retail, and a mix of very-low, low,
4 moderate, and market rate rental housing in a higher amount and in a different combination
5 than what would otherwise have been allowed in the C-3-G zoning district and 120-X height
6 district in which it was located.

7 (b) An uncodified portion of Ordinance No. 4-17 provided that the ordinance expired by
8 operation of law five years after its initial effective date (which was February 19, 2017),
9 namely, February 19, 2022, unless the 1270 Mission Street project had received a first
10 construction document on or before February 19, 2022, or the Board of Supervisors, on or
11 before February 19, 2022, extended or re-enacted the ordinance.

12 (c) The project sponsor made good faith efforts to obtain a first construction document
13 for a project at 1270 Mission Street; however, for reasons out of the control of the project
14 sponsor, including but not limited to the COVID-19 pandemic, the project sponsor was unable
15 to receive a first construction document within the time provided by Ordinance 4-17.

16 (d) By this ordinance, the Board of Supervisors re-adopts, without any material
17 changes, Planning Code Section 249.15 - the Mission and 9th Street Special Use District - to
18 allow the project sponsor to continue pursuing the project at 1270 Mission Street without
19 delay.

20 21 Section 2. Land Use and Environmental Findings

22 (a) On August 24, 2016, prior to adopting Ordinance Nos. 252-16 and 4-17, the
23 Planning Department's Environmental Review Officer finalized the Mitigated Negative
24 Declaration ("MND") for the 1270 Mission Street Project, and determined that the MND was
25 adequate, accurate, and complete and reflected the independent judgment of the Planning

1 Department. A copy of the MND and this Determination is on file with the Clerk of the Board
2 of Supervisors in File No. 161067. The Planning Commission adopted the MND and a
3 Mitigation Monitoring and Reporting Program in its Motion Number 19767 on October 27,
4 2016. In Ordinance No. 4-17, this Board reviewed the MND and the record as a whole, and
5 adopted and incorporated by reference, as though fully set forth therein, the findings, including
6 the Mitigation Monitoring and Reporting Program, pursuant to the California Environmental
7 Quality Act (California Public Resources Code Section 21000 et seq.), adopted by the
8 Planning Commission on October 27, 2016, in Resolution No. 19767. A copy of said
9 Resolution No. 19767 is on file with the Clerk of the Board of Supervisors in File No. 161067
10 and is incorporated herein by reference.

11 (b) The Board has reviewed the MND and Mitigation Monitoring and Reporting
12 Program and finds, on the basis of substantial evidence and in light of the whole record, that
13 there have been no changes to the project or its circumstances and no new information has
14 become available since adoption of the MND that would alter the findings of the Planning
15 Commission or this Board.

16 (c) On October 27, 2016, the Planning Commission, in Resolution No. 19767, adopted
17 findings that the actions contemplated in Ordinance No. 4-17 were consistent, on balance,
18 with the City's General Plan and eight priority policies of Planning Code Section 101.1, and
19 that the amendments would serve the public necessity, convenience, and welfare pursuant to
20 Planning Code Section 302. The Board adopted these findings as its own on January 10,
21 2017, in Ordinance No. 4-17. A copy of said Resolution and Ordinance is on file with the
22 Clerk of the Board of Supervisors in File No. 161067.

23 (d) On _____, the Planning Commission, in Resolution No. _____,
24 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
25 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 (e) 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 Planning Commission Resolution _____ and the Board incorporates such
6 reasons herein by reference, as though fully set forth herein. A copy of Planning Commission
7 Resolution No. _____ is on file with the Clerk of the Board of Supervisors in File No.
8 _____.

9
10 Section 3. Article 2 of the Planning Code is hereby amended by adding Section 249.15
11 to read as follows:

12 **SEC. 249.15. MISSION AND 9TH STREET SPECIAL USE DISTRICT.**

13 (a) In order to provide for a mixed use development project on the Mission Street transit
14 corridor with ground floor retail, and an increased amount and unique combination of very-low, low,
15 moderate, and market rate rental housing than what would otherwise be allowed in a C-3-G zoning
16 district with a 120-X height limit, there shall be a Mission and 9th Street Special Use District (SUD) at
17 1270 Mission Street located at Lots 20 and 21 of Assessor's Block 3701, as designated on Sectional
18 Map SU07 of the Zoning Map. The exceptions to the applicable open space and floor area ratio
19 requirements set forth below, the rezoning of the applicable height district set forth in the ordinance in
20 Board File No. _____ creating this Section 249.15, and the resulting increased number of Dwelling
21 Units allowed by the SUD, shall be considered forms of assistance specified in Chapter 4.3 of the
22 California Government Code.

23 (b) Controls. All provisions of the Planning Code applicable to a C-3-G District shall apply
24 except as otherwise provided in this Section 249.15(b).

1 **(1) Inclusionary Housing Requirements For Buildings Taller than 120 Feet. In order**
2 *to allow for the increased number of Dwelling Units and other exceptions to the Code provided by this*
3 *Special Use District, on-site inclusionary Dwelling Units pursuant to Planning Code Section 415.6*
4 *shall be required. Notwithstanding the provisions of Section 415.6(a)(1) and (2), the number of*
5 *inclusionary Dwelling Units constructed shall be 25% of all units constructed, with a minimum of*
6 *13.5% affordable to households whose total household income does not exceed 55% of Area Median*
7 *Income for purposes of renting an affordable unit; 4% of the units affordable to low income*
8 *households, defined in this subsection (b)(1) as households whose total household income does not*
9 *exceed 70% of Area Median Income for purposes of renting an affordable unit; 4% of the units*
10 *affordable to households earning 90% of Area Median Income for purposes of renting an affordable*
11 *unit; and 3.5% of the units affordable to households earning 150% of Area Median Income for*
12 *purposes of renting an affordable unit. If provided as rental units, the requirements of Section*
13 *415.5(g)(ii) shall apply. Except as expressly provided in this subsection (b)(1), all other provisions of*
14 *Section 415 shall apply.*

15 **(2) Inclusionary Housing Requirements For Buildings Less Than or Equal to 120**
16 **Feet. Section 415 shall apply in its entirety.**

17 **(3) Open Space for Dwelling Units. Up to 40% of the usable open space required by**
18 *Section 135 may be provided off-site, but shall be located within the SUD or within 900 feet of the*
19 *boundaries of the SUD. Open space must be of one or more of the following types:*

- 20 **(A) An unenclosed plaza at street grade, with seating areas and landscaping;**
21 **(B) A terrace or roof garden with landscaping;**
22 **(C) Streetscape improvements with landscaping and pedestrian amenities that**
23 *result in additional space beyond the pre-existing sidewalk width, such as sidewalk widening or*
24 *building setbacks; or*

(D) Streetscape improvements with landscaping and pedestrian amenities on alleyways from building face to building face, beyond basic street tree planting or street lighting as otherwise required by the Planning Code or other parts of the Municipal Code.

(4) **Floor Area Ratio.** For projects that meet the requirements of subsection (b)(1), the floor area ratio limits set forth in Sections 123 and 124 of this Code for C-3-G Districts shall not apply to Residential Uses as defined in Section 102. For all other projects, applicable floor area ratio limits shall apply.

(c) This Section 249.15 shall expire by operation of law five years after its effective date unless the project described in subsection (a) has received a first construction document on or before that date, or the Board of Supervisors, on or before that date, extends or re-enacts this Section. Upon expiration of this Section, the City Attorney is authorized to cause the section to be removed from the Planning Code.

Section 4. The Planning Code is hereby amended by revising Sheet SU07 of the Zoning Map as follows:

Description of Property	Use District to be Superseded	Use District Hereby Approved
Assessor's Block 3701, Lots 20 and 21	C-3-G	Mission and 9th Street SUD

Section 5. The Planning Code is hereby amended by revising Sheet HT07 of the Zoning Map as follows:

Description of Property	Height/Bulk District to be Superseded	Height/Bulk District Hereby Approved

Assessor's Block 3701, Lots 20 and 21	120-X	200-X
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Section 6. 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.

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/
AUDREY WILLIAMS PEARSON
Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code, Zoning Map - Mission and 9th Street Special Use District]

Ordinance re-adopting the former Planning Code section and Zoning Map designation creating the Mission and 9th Street Special Use District (SUD) at 1270 Mission Street, located at Assessor's Parcel Block No. 3701, Lot Nos. 20 and 21, in the area generally bounded by Mission Street on the south, Laskie Street on the east, Assessor's Parcel Block No. 3701, Lot Nos. 22, 23, and 24 on the west, and Assessor's Parcel Block No. 3701, Lot No. 66 to the north; changing the height limit on Assessor's Parcel Block No. 3701, Lot Nos. 20 and 21, within the SUD, from 120-X to 200-X; 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 convenience, necessity, and welfare under Planning Code, Section 302.

Existing Law

Because the Special Use District applicable to Assessor's Block 3701, Lots 20 and 21 expired in 2022, those parcels are currently zoned C-3-G, with a height limit of 120 feet.

Amendments to Current Law

This ordinance would re-adopt the Mission and Ninth Street Special Use District, which would impose special controls in the district. Under this ordinance, Planning Code controls applicable to the C-3-G would apply to the SUD, with certain exceptions related to open space and FAR requirements. For projects over 120 feet, the SUD would require the provision of on-site affordable rental housing for very low, low, and moderate income households in varying amounts. Projects 120 feet and under would be subject to current Planning Code affordable housing requirements. The parcels also would be rezoned from 120-X height and bulk district to a 200-X height and bulk district.

Background Information

Planning Code section 249.15, adopted in 2017, allowed for the construction of a project on Assessor's Block 3701, lots 20 and 21, at the corner of Mission Street and Laskie Street, near Ninth Street. The SUD and height rezoning allowed for an additional number of units than would otherwise have been allowed in a C-3-G, 120-X zoning district, but required (in an uncodified section of the ordinance adopting the SUD) that the project obtain a first construction document within 5 years. Although a site permit was issued, no construction documents were issued, and the SUD expired. This ordinance re-adopts the SUD.

FILE NO. 230540

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