

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

---

---

## MEMORANDUM

---

---

Date: November 4, 2022  
To: Planning Department/Commission  
From: Erica Major, Assistant Clerk, Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 221164  
Planning Code, Zoning Map - Van Ness & Market Residential Special Use District -  
Height Increase for 98 Franklin Street

---

- 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](mailto:Erica.Major@sfgov.org).

1 [Planning Code, Zoning Map - Van Ness & Market Residential Special Use District - Height  
2 Increase for 98 Franklin Street]

3 **Ordinance amending the Planning Code to revise the Van Ness & Market Residential**  
4 **Special Use District to update the Option for Dedication of Land for development**  
5 **projects to fulfill their inclusionary housing obligations; to revise the Zoning Map to**  
6 **increase the maximum height for Assessor’s Parcel Block No. 0836, Lot Nos. 008, 009,**  
7 **and 013, at 98 Franklin Street, from 85-X // 120/365-R-2 to 85-X // 120/400-R-2; affirming**  
8 **the Planning Department’s determination under the California Environmental Quality**  
9 **Act; and making findings of consistency with the General Plan, and the eight priority**  
10 **policies of Planning Code, Section 101.1, and findings of public necessity,**  
11 **convenience, and welfare under Planning Code, 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 ~~strikethrough 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. CEQA and Land Use 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. \_\_\_\_ and is incorporated herein by reference. The Board affirms this  
25 determination.

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

6 (c) Pursuant to Planning Code Section 302, this 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. \_\_\_\_\_, and the Board adopts such  
9 reasons as its own. A copy of said resolution is on file with the Clerk of the Board of  
10 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference.

11  
12 Section 2. Article 2 of the Planning Code is hereby amended by revising Section  
13 249.33, to read as follows:

14 **SEC. 249.33. VAN NESS & MARKET RESIDENTIAL SPECIAL USE DISTRICT.**

15 \* \* \* \*

16 (b) **Use Controls.**

17 \* \* \* \*

18 (16) **Option for Dedication of Land.**

19 (A) Development projects in this District may opt to fulfill the Inclusionary  
20 Housing requirement of Section 415 through the Land Dedication alternative contained in  
21 Section 419.6. The Land Dedication alternative is available for development projects within  
22 the District under the same terms and conditions as provided for in Section 419.5(a)(2),  
23 except that in lieu of the Land Dedication Alternative requirements of Table 419.5, projects  
24 may satisfy the requirements of Section 415.5 by dedicating land for affordable housing if the  
25 dedicated land could accommodate a total amount of units that is equal to or greater than

1 35% of the units that are being provided on the principal development project site, as  
2 determined by the Planning Department. Any dedicated land shall be at least partly located  
3 within ~~one~~ mile of the boundaries of either the Market and Octavia Plan Area or the Upper  
4 Market NCT District.

5 (B) Notwithstanding the requirements of Section 419.5(a)(2)(H),  
6 development projects dedicating land shall obtain the required letter from the Mayor's Office  
7 of Housing and Community Development verifying acceptance of the dedicated land ~~within no~~  
8 later than 180 days following of the effective date of this Special Use District or prior to Planning  
9 Commission or Planning Department approval of the development project, ~~whichever occurs~~  
10 ~~first. No property may be used for this land dedication option unless the Mayor's Office of Housing and~~  
11 ~~Community Development issues an acceptance letter within this 180 day timeline. The Director of the~~  
12 Mayor's Office of Housing and Community Development may waive application of Section  
13 419.5(a)(2)(G).

14 (C) Development projects that elect to dedicate land pursuant to this  
15 ~~section subsection (b)(16)~~ may be eligible for a waiver against all or a portion of their affordable  
16 housing fees under Sections 416 and 424 if the Planning Director determines that the land  
17 acquisition costs for the dedicated land exceed the development project's obligations under  
18 the fee option of Section 415. The Planning Director, in consultation with the Director of the  
19 Mayor's Office of Housing and Community Development and the Director of Property, shall  
20 calculate the waiver amount based on actual commercially reasonable costs to acquire the  
21 dedicated land. If the Director of the Mayor's Office of Housing and Community Development  
22 requests that the land dedication occur before the First Construction Document for the  
23 development project, the waiver amount shall be increased by the reasonable value of the  
24 City's early use of the dedicated land.

25 \* \* \* \*

1  
2 Section 3. The Zoning Map is hereby amended by revising Height Map HT07, to read  
3 as follows:

4

Block(s) and Lot(s)	Current Height Limit	Revised Height Limit
Assessor's Parcel Block No. 0836, Lots 008, 009, and 013	85-X // 120/365-R-2	85-X // 120/400-R-2

5  
6  
7  
8

9

10 Section 4. Effective Date. This ordinance shall become effective 30 days after  
11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
13 of Supervisors overrides the Mayor's veto of the ordinance.

14

15 Section 5. Scope of Ordinance. With the exception of the amendment of the Zoning  
16 Map in Section 3 of this ordinance, in enacting this ordinance, the Board of Supervisors  
17 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
18 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
19 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
20 additions, and Board amendment deletions in accordance with the "Note" that appears under  
21 the official title of the ordinance.

22 APPROVED AS TO FORM:  
23 DAVID CHIU, City Attorney

24 By: /s/ ANDREA RUIZ-ESQUIDE  
25 ANDREA RUIZ-ESQUIDE  
Deputy City Attorney

n:\legana\as2022\2300146\01639603.docx

## **LEGISLATIVE DIGEST**

[Planning Code, Zoning Map - Van Ness & Market Residential Special Use District - Height Increase for 98 Franklin Street]

**Ordinance amending the Planning Code to revise the Van Ness & Market Residential Special Use District to update the Option for Dedication of Land for development projects to fulfill their inclusionary housing obligations; to revise the Zoning Map to increase the maximum height at Assessor's Parcel Block No. 0836, Lot Nos. 008, 009, and 013, at 98 Franklin Street, from 85-X // 120/365-R-2 to 85-X // 120/400-R-2; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

### Existing Law

The Van Ness & Market Residential Special Use District (SUD) is generally located at the intersections of Van Ness Avenue at Market Street and South Van Ness Avenue at Mission Street, along with parcels on both sides of Market and Mission Streets between 9th and Division Streets. The SUD is intended to be a transit-oriented, high-density neighborhood with a significant residential presence and a mix of neighborhood-serving uses. New development and major expansions must be predominantly residential. Other non-residential uses that are allowed and encouraged, include arts, institutional, and retail uses.

### Amendments to Current Law

This ordinance amends the Van Ness & Market SUD to: a) update the option for dedication of land for development projects to fulfill their inclusionary housing obligations; and b) revise the Zoning Map to increase the maximum height at Assessor's Block No. 0836, Lot Nos. 008, 009, and 013, at 98 Franklin Street, from 85-X // 120/365-R-2 to 85-X // 120/400-R-2. Both amendments are related to a project proposed at 98 Franklin Street.

### Background Information

This ordinance is the companion to another piece of legislation introduced on the same date, regarding a Development Agreement for the proposed project at 98 Franklin Street.

n:\legana\as2022\2300146\01639683.docx

# 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: