

BOARD of SUPERVISORS



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MEMORANDUM

Date: March 18, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240228
Planning Code, Local Coastal Program Amendment - Wawona Street and 45th Avenue
Cultural Center 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 John Carroll at john.carroll@sfgov.org.

[Planning Code, Local Coastal Program Amendment - Wawona Street and 45th Avenue Cultural Center Special Use District]

Ordinance amending the Planning Code to clarify the Wawona Street and 45th Avenue Special Use District's height limit and principal permitted use for purposes of the Local Coastal Program; amending the Local Coastal Program to add the Wawona Street and 45th Avenue Cultural Center Special Use District; amending the Local Coastal Program to designate the principal permitted use within the City's Coastal Zone for purposes of appeal to the California Coastal Commission; 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.

NOTE: **Unchanged Code text and uncoded 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. CEQA and Land Use Findings.

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

13 (a) On December 12, 2023, the Board of Supervisors passed the Wawona Street and
14 45th Avenue Cultural Center Special Use District ("SUD") (Ordinance No. 241-23, on file with
15 the Clerk of the Board in File No. 230505) to facilitate the redevelopment of the Irish Cultural
16 Center, subject to certification by the California Coastal Commission ("Coastal Commission").
17 That ordinance, which amended the Planning Code, Zoning Map, and Local Coastal Program
18 ("LCP"), having been signed by the Mayor on December 13, 2023, is now effective, but is not
19 operative because it has not been certified by the Coastal Commission. See Section 5 of
20 Ordinance No. 241-23.

21 (b) On December 12, 2023, the Board of Supervisors also adopted Resolution No.
22 571-23, on file with the Clerk of the Board in File No. 231137. That resolution, which was
23 signed by the Mayor on December 13, 2023, authorized the Director of the Planning
24 Department to transmit Ordinance No. 241-23 to the Coastal Commission for certification.

1 (c) Coastal Commission staff have recommended that the City define the principal
2 permitted use ("PPU") under the City's LCP for both the SUD and all other zoning districts
3 within the City's Coastal Zone to specify whether certain coastal development permitting
4 decisions are appealable to the California Coastal Commission. The City will continue to
5 evaluate the PPUs identified in this ordinance within the City's Coastal Zone, and may seek to
6 amend those PPUs in the future.

7 (d) The existing 100-foot height limit for the SUD (Assessor's Parcel Block No. 2513,
8 Lot No. 026) has been in effect since 1970 (see Ordinance No. 177-70, on file with the Clerk
9 of the Board in File No. _____), 16 years before the Coastal Commission's certification of the
10 City's LCP in 1986. That height limit is depicted on the Zoning Map in Sectional Map No.
11 HT13. The City's Coastal Zone Issue Papers (on file with the Clerk of the Board in File No.
12 _____) discussed the 100-foot height limit in the years leading up to the certification of the
13 LCP. However, neither the City nor the Coastal Commission can locate a certified copy of
14 Sectional Map No. HT13. As such, out of an abundance of caution, the controls of this SUD
15 also reaffirm the 100-foot height limit for the purposes of this LCP amendment. This
16 amendment does not modify height limits in the SUD, but instead clarifies the height limit for
17 the purposes of the LCP.

18 (e) Because Ordinance No. 241-23 is now effective, although not yet operative and
19 thus not published in the Planning Code, the ordinance in this Board File No. 240228 shows in
20 "existing text" font (plain Arial) Planning Code Section 249.96, which established the SUD in
21 Ordinance No. 241-23. The ordinance shows the amendments clarifying the maximum height
22 in the SUD and principal permitted use in "addition to Code" font (single-underline italics
23 Times New Roman) or "deletion to Code" font (strikethrough italics Times New Roman), as
24 applicable.

1 (f) The Board of Supervisors finds that the Planning Code amendments in this
2 ordinance will fulfill a public purpose and serve the public convenience and general welfare by
3 facilitating the continued operation and expansion of the Cultural Center, a longstanding San
4 Francisco community center. The continuation of this use is important to retain existing
5 neighborhood character and will benefit area residents, visitors, and the broader community
6 for years to come. The Board of Supervisors also finds that specifying PPUs for purposes of
7 potential appeal to the Coastal Commission is consistent with the Coastal Act's intent, and will
8 help to ensure that only the types of coastal development permitting decisions that are
9 specified in the Coastal Act are appealable to the Coastal Commission.

10 (g) The Board of Supervisors finds that the Wawona Street and 45th Avenue Cultural
11 Center Special Use District and its controls, as shown in Section 3 of this ordinance,
12 constitute an amendment to the City's LCP. The Board of Supervisors finds that the LCP
13 amendment conforms with the applicable provisions of the Coastal Act of 1976, and that the
14 amendment is consistent with and adequate to carry out the provisions of the City's certified
15 LCP Land Use Plan – the Western Shoreline Area Plan. The Board further finds that the
16 amendment will be implemented in full conformance with the Coastal Act's provisions.

17
18 Section 3. The Local Coastal Program and Articles 2 and 3 of the Planning Code are
19 hereby amended by revising Sections 249.96, 330.9, and 330.10 to read as follows:

20
21 **SEC. 249.96. WAWONA STREET AND 45TH AVENUE CULTURAL CENTER**
22 **SPECIAL USE DISTRICT.**

23 (a) **General.** A special use district entitled the "Wawona Street and 45th Avenue
24 Cultural Center Special Use District" consisting of Assessor's Parcel Block No. 2513, Lot No.
25 026, is hereby established for the purposes set forth below. The boundaries of the Wawona

1 Street and 45th Avenue Cultural Center Special Use District are designated on Sectional Map
2 No. SU13 of the Zoning Map.

3 (b) **Purpose.** The purpose of this special use district is to provide for the development
4 of a community center with related educational, cultural, social, entertainment, recreational,
5 and retail uses to serve both the immediate neighborhood and the larger San Francisco
6 community.

7 (c) **Development Controls.** Applicable provisions of the Planning Code shall control
8 except as otherwise provided in this Section 249.96. If there is a conflict between other
9 provisions of the Planning Code and this Section 249.96, this Section 249.96 shall prevail.

10 (1) The following uses and use categories shall be permitted as principal uses
11 on all floors: General Office, Institutional, Retail Sales and Service, Wireless
12 Telecommunications Facility, and Nighttime Entertainment.

13 (2) The provisions of Planning Code Sections 121.1 (Development of Large
14 Lots, Neighborhood Commercial Districts) and 121.2 (Non-Residential Use Size Limits in
15 Neighborhood Commercial and Neighborhood Commercial Transit Districts) shall not apply.

16 (3) For the purposes of compliance with Planning Code Section 169
17 (Transportation Demand Management Program), development projects shall be subject to
18 30% of the applicable target. All other provisions of Section 169 shall apply.

19 (4) The applicable height limit shall be 100 feet.

20 (d) ~~Conditional Use Authorization~~ **Additional Exceptions.** The following eExceptions from
21 otherwise applicable requirements of ~~the~~ is Planning Code may be appropriate to further the
22 purpose of the Wawona Street and 45th Avenue Cultural Center Special Use District. The
23 Planning Commission may authorize the following exceptions from ~~the following~~ Planning Code
24 requirements through a Conditional Use Authorization:

25 (1) **Floor Area Ratio.** The maximum Floor Area Ratio shall be 7.0:1.

1 (2) **Rear Yard Setbacks.** The provisions of Section 134 do not apply, and thus
2 there shall be no required rear yard.

3 (3) **Bulk.** The applicable Bulk limits shall be a maximum length of 130 feet and
4 a maximum diagonal of 176 feet, applying at a height of 40 feet and above.

5 (e) **Principal Permitted Use Under the Local Coastal Program.** Notwithstanding any other
6 provisions of this Code or the City and County's Local Coastal Program Implementation Plan that
7 identify principal permitted, conditional, and other types of uses, within the Wawona Street and 45th
8 Avenue Cultural Center Special Use District, the principal permitted use for the purposes of California
9 Public Resources Code Section 30603(a)(4) shall be Commercial, where, solely for the purposes of this
10 Special Use District, that shall be understood to mean a community center with related educational,
11 cultural, social, office, entertainment, recreational, wireless telecommunications services, and retail
12 uses. The designation of the principal permitted use for the purpose of the Local Coastal Program
13 does not alter the uses permitted on the site under the Planning Code or applicable requirements under
14 the Planning Code to establish such uses.

15 16 **SEC. 330.9. APPEAL PROCEDURES.**

17 (a) All Coastal Zone Permit Applications may be appealed to the Board of Appeals as
18 described in Section 308.2 of this Code. Local appeal of a Coastal Zone Permit is not subject
19 to the aggrieved party provisions in Section 330.2(a) of this Code, but must comply with the
20 appeal review procedures of Section 330.5.1(b) and Section 330.5.2 of this Code.

21 (b) Appeal to the California Coastal Commission is available only for approved projects
22 in the appealable area of the Coastal Zone, as designated in Sectional Maps CZ4, CZ5 and
23 CZ13 of the Zoning Map; under California Public Resources Code Section 30603(a)(4), for
24 approved projects that involve a use that is not the principal permitted use designated in Planning
25 Code Section 330.9(c); and under California Public Resources Code Section 30603(a)(5), for approved

1 ~~or- Disapproved projects that involve a major public works project or a major energy facility, all as~~
2 ~~further described in Section 330.10 Coastal Zone Permit Applications are not appealable to the~~
3 ~~California Coastal Commission.~~

4 (c) **Principal Permitted Use Under the Local Coastal Program.** Notwithstanding any other
5 provisions of this Code or the City and County's Local Coastal Program Implementation Plan that
6 identify principal permitted, conditional, and other types of uses, the principal permitted use for the
7 purposes of California Public Resources Code Section 30603(a)(4) shall be as described in this
8 subsection (c). The designation of the principal permitted use for the purpose of the Local Coastal
9 Program does not alter the uses permitted on any site under the Planning Code or applicable
10 requirements under the Planning Code.

11 (A) Residential Districts: Residential Uses.

12 (B) Parkmerced Residential District: Residential Uses.

13 (C) Neighborhood Commercial Districts: Commercial Uses.

14 (D) Public Districts: Public Uses, where that shall be understood to mean a
15 Public Facility, Open Recreation Area, or Passive Outdoor Recreation.

16 (E) Wawona Street and 45th Avenue Cultural Center Special Use District:
17 Commercial Uses, as defined in Section 249.96(e).

18 ~~(ed)~~ A Coastal Zone Permit decision which may be appealed to the California Coastal
19 Commission can be appealed by filing with the California Coastal Commission within 10
20 working days after the California Coastal Commission receives notice of final action from the
21 Planning Department. Appeals to the California Coastal Commission are subject to the
22 aggrieved party provisions in Section 330.2(a).

23 ~~(de)~~ An applicant is required to exhaust local appeals before appealing to the
24 California Coastal Commission.

1 (~~ef~~) Major public works and energy facilities within the Coastal Zone may be appealed
2 to the California Coastal Commission whether approved or not by the local government.

3
4 **SEC. 330.10. APPEALABLE PROJECTS**

5 The following projects may be appealed to the California Coastal Commission:

6 (a) Projects approved between the sea and the first public road paralleling the sea or
7 within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where
8 there is no beach, or as otherwise indicated in Sectional Maps CZ4, CZS, and CZ13 of the
9 Zoning Map.

10 (b) Projects approved and located on tidelands, submerged lands, public trust lands,
11 within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward
12 face of any coastal bluff.

13 (c) Any project which constitutes a major public works project or a major energy
14 facility, including the following:

15 (1) All production, storage, transmission, and recovery facilities for water,
16 sewerage, telephone, and other similar utilities owned or operated by any public agency or by
17 any utility subject to the jurisdiction of the Public Utilities Commission, except for energy
18 facilities.

19 (2) All public transportation facilities, including streets, roads, highways, public
20 parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and
21 stations, bridges, trolley wires, and other related facilities. A railroad whose primary business
22 is the transportation of passengers shall not be considered public works nor a development if
23 at least 90 percent of its routes located within the coastal zone utilize existing rail or highway
24 rights-of-way.

(3) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

(4) All community college facilities.

(5) Major public works or energy facility with an estimated cost of \$100,000 or more.

(6) Energy facilities is any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

(d) Projects proposing a use that is not designated as the principal permitted use in the applicable Zoning District in subsection 330.9(c).

Section 4. Ordinance No. 241-23 included, pursuant to Sections 106 and 302(c) of the Planning Code, an amendment of Sheet SU 13 of the Zoning Map of the City and County of San Francisco. The Zoning Map amendment is hereby reprinted:

Assessor's Parcel (Block/Lot Numbers)	Special Use District Hereby Approved
2513/026	Wawona Street and 45th Avenue Cultural Center Special Use District

Section 5. Local Coastal Program. The Local Coastal Program is hereby amended to add Planning Code Section 249.96 and to modify Planning Code Sections 330.9 and 330.10, as set forth above in Section 3, including the Zoning Map amendment as reprinted above in Section 4.

Section 6. Effective Date; Operative Date.

1 (a) This ordinance shall become effective 30 days after enactment. Enactment occurs
2 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not
3 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the
4 Mayor's veto of the ordinance.

5 (b) Upon enactment pursuant to this Section 6, the Director of the Planning
6 Department shall submit this ordinance to the California Coastal Commission for certification
7 as a Local Coastal Program Amendment. This ordinance, which constitutes both the
8 unamended and amended text of Planning Code Section 249.96 in Section 3 and the
9 reprinted Zoning Map amendment in Section 4, shall be operative upon final certification by
10 the California Coastal Commission. If the California Coastal Commission certifies this
11 ordinance subject to modifications, this ordinance, as so modified, shall become operative 30
12 days after enactment of the modifications.

13
14 Section 6. Transmittal of Ordinance. Upon certification by the California Coastal
15 Commission, the Director of the Planning Department shall transmit a copy of the certified
16 Local Coastal Program Amendment to the Clerk of the Board for inclusion in File No. 240228.
17 The Planning Department shall also retain a copy of the certified Local Coastal Program
18 Amendment in its Local Coastal Program files.

19
20 APPROVED AS TO FORM:
21 DAVID CHIU, City Attorney

22 By: /s/ Peter R. Miljanich
23 PETER R. MILJANICH
24 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code, Local Coastal Program Amendment - Wawona Street and 45th Avenue Cultural Center Special Use District]

Ordinance amending the Planning Code to clarify the Wawona Street and 45th Avenue Special Use District's height limit and principal permitted use for purposes of the Local Coastal Program; amending the Local Coastal Program to add the Wawona Street and 45th Avenue Cultural Center Special Use District; amending the Local Coastal Program to designate the principal permitted use within the City's Coastal Zone for purposes of appeal to the California Coastal Commission; 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 property at 2700 45th Avenue (Assessor's Parcel Block No. 2513, Lot. No. 026) is subject to the controls in the Planning Code that govern the Small-Scale Neighborhood Commercial District (NC-2), and the controls that govern the 100-A height and bulk district. On December 12, 2023, the Board of Supervisors passed the Wawona Street and 45th Avenue Cultural Center Special Use District ("SUD") (Ordinance No. 241-23, on file with the Clerk of the Board in File No. 230505) to facilitate the redevelopment of the Irish Cultural Center, subject to certification by the California Coastal Commission ("Coastal Commission"). That ordinance, which amended the Planning Code, Zoning Map, and Local Coastal Program ("LCP"), having been signed by the Mayor on December 13, 2023, is now effective, but is not operative because it has not been certified by the Coastal Commission.

Under the California Coastal Act of 1976 (Public Resources Code Section 30000 et seq., "Coastal Act"), the City administers the LCP, which has been certified by the Coastal Commission. The LCP addresses coastal access, public recreation, transportation, land use, and habitat protection within the San Francisco Coastal Zone. Under the LCP, the City is authorized to issue coastal development permits for projects proposing development within a portion of the Coastal Zone. Certain coastal development permits issued by the City are appealable to the Coastal Commission, including coastal development permits for projects that involve a use that is not the designated principal permitted use for the project site under California Public Resources Code Section 30603(a)(4).

Amendments to Current Law

This ordinance would amend the SUD to clarify the applicable height limit and to designate the principal permitted use for the SUD for the purposes of California Public Resources Code Section 30603(a)(4) as Commercial, where, solely for the purposes of the SUD, that term

FILE NO.

shall be understood to mean a community center with related educational, cultural, social, office, entertainment, recreational, wireless telecommunications services, and retail uses.

This ordinance would also designate the principal permitted use for the purposes of California Public Resources Code Section 30603(a)(4) for all zoning districts with the City's coastal zone.

This ordinance would constitute an amendment to the City's Local Coastal Program, subject to certification by the California Coastal Commission.

Background Information

The Irish Cultural Center has operated at 2700 45th Avenue for more than 45 years. The two-story building not been significantly renovated since it was first constructed. The amendments to the SUD would facilitate the permitting and construction of a modern, state-of-the-art community center that will reactivate the street frontages, beautify the neighborhood, and provide the public with additional educational, cultural, social, entertainment, recreational, and retail opportunities.

This ordinance will become operative upon certification by the Coastal Commission. If the Coastal Commission certifies this ordinance subject to modifications, this ordinance, as so modified, shall become operative 30 days after enactment of the modifications.

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Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- ☒ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor _____ inquires..."
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. _____ from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No. _____
- ☐ 9. Reactivate File No. _____
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☒ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- ☒ Yes ☐ No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Engardio, Peskin

Subject:

Planning Code, Local Coastal Program Amendment - Wawona Street and 45th Avenue Cultural Center Special Use District

Long Title or text listed:

Ordinance amending the Planning Code to clarify the Wawona Street and 45th Avenue Special Use District's height limit and principal permitted use for purposes of the Local Coastal Program; amending the Local Coastal Program to add the Wawona Street and 45th Avenue Cultural Center Special Use District; amending the Local Coastal Program to designate the principal permitted use within the City's Coastal Zone for purposes of appeal to the California Coastal Commission; 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.

Signature of Sponsoring Supervisor: _____

