

File No. 240260

Committee Item No. 1

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: May 6, 2024

Board of Supervisors Meeting:

Date: \_\_\_\_\_

#### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance - VERSION 3                        |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest - VERSION 3               |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" 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                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract / DRAFT Mills Act Agreement         |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
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#### OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Planning Commission Transmittal Package – May 3, 2024</u>       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Planning Commission Transmittal Package – December 27, 2023</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Project Image</u>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>CEQA Determinations – April 1, 2024 and November 6, 2023</u>    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Referrals CEQA, PC – March 19, 2024</u>                         |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Referrals CEQA, PC, SBC – October 4 and 10, 2023</u>            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Committee Report Request Memo – May 1, 2024</u>                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |
| <input type="checkbox"/>            | <input type="checkbox"/> | _____  |

Prepared by: John Carroll

Date: May 3, 2024

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

[Planning Code - 900 Kearny Street Special Use District]

**Ordinance amending the Planning Code to modify the 900 Kearny Street Special Use District to allow an enclosed rooftop building addition with a restricted arts activities use; 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 pursuant to 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. Environmental 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. ~~234006~~240260 and is incorporated herein by reference. The Board affirms this determination.

(b) On ~~November 30~~May 2, 2023, the Planning Commission, in Resolution No. ~~24453~~ 21553, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the City's General Plan and eight priority policies of Planning Code Section 101.1. The Board adopts these findings as its own. A copy of said Resolution

1 is on file with the Clerk of the Board of Supervisors in File No. ~~234006~~240260, and is  
2 incorporated herein by reference.

3 (c) 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 No. ~~21453~~ 21553, and the Board incorporates such  
6 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
7 Supervisors in File No. ~~234006~~240260.

8  
9 Section 2. General Findings.

10 (a) The 900 Kearny Street Special Use District (SUD) is intended to facilitate reuse of  
11 the property located at 900 Kearny Street. The property is located within the Chinatown  
12 Community Business District, established in Planning Code Section 810, which prohibits  
13 Non-Retail Professional Services uses on the first story and in the basement of buildings,  
14 while allowing such uses on the second story and higher.

15 (b) The 900 Kearny Street SUD will ~~would~~ facilitate the reuse of the ground and  
16 basement floors of 900 Kearny Street and exempt the site from the non-residential use size  
17 limits and use size maximums under Sections 121.4 and 810 of the Planning Code. All other  
18 applicable Planning Code provisions would continue to apply to the SUD. In the face of the  
19 COVID-19 pandemic, commercial vacancy rates have risen to over 28% throughout the City.  
20 These high vacancy rates have persisted, particularly in the area where 900 Kearny Street is  
21 located, in the blocks generally at the intersection of Chinatown, North Beach, Jackson  
22 Square, and the Financial District. The current restrictions applicable to Non-Retail  
23 Professional Services uses within the Chinatown Community Business District exacerbate the  
24 difficulty of building owners to support existing businesses and tenants, and to attract new  
25 business and tenants.

1           (c) The 900 Kearny Street SUD will facilitate increasing the presence of arts in the  
2           area by permitting Arts Activities Uses on all existing six floors of the building. In addition, the  
3           SUD would allow a new rooftop structure to be occupied by an artist studio or other Arts  
4           Activities Uses. The property owner and a well-known artist have agreed to install a large  
5           mural on the building's exterior, further identifying the building as a potential space for artists.  
6

7           Section 3. Article 2 of the Planning Code is hereby amended by revising Section  
8           249.95, to read as follows:

9           **SEC. 249.95. 900 KEARNY STREET SPECIAL USE DISTRICT.**

10          (a) **Purpose.** The 900 Kearny Street Special Use District is intended to facilitate the  
11          reuse of the ground and basement floors of 900 Kearny Street, which were previously  
12          occupied by a Formula Retail Financial Services Use that vacated the space in 2021.

13          (b) **Location.** The 900 Kearny Street Special Use District consists of Assessor's Block  
14          0176, Lot 011. Its boundaries are shown on Special Use District Map SU01 of the Zoning  
15          Map, and consists of the area within a perimeter established by Columbus Street to the east,  
16          Jackson Street to the south, and Kearny Street to the west, and adjacent to the Sentinel  
17          Building/Columbus Tower to the north.

18          (c) **Controls.** Applicable provisions of the Planning Code shall apply to the 900 Kearny  
19          Street Special Use District except as otherwise provided in this Section 249.95. In the event of  
20          a conflict between other provisions of the Planning Code and this Section, this Section shall  
21          control.

22                  (1)     Non-Retail Professional Services Uses shall be permitted on all floors,  
23          including the First Story and Basement.

24                  (2)     The non-residential use size limits and use size maximums in Sections  
25          121.4 and 810 shall not apply to Non-Retail Professional Services Uses.



(3) Arts Activities Uses shall be permitted on all floors.

(4) A rooftop enclosed structure with a maximum floor area of 735 square feet and a maximum height of 11 feet above the finished roof is permitted, provided it is occupied exclusively by Arts Activities Uses.

Section 4. Article 8 of the Planning Code is hereby amended by revising Section 810 to read as follows:

**SEC. 810. CHINATOWN COMMUNITY BUSINESS DISTRICT.**

\* \* \* \*

**Table 810**

**CHINATOWN COMMUNITY BUSINESS DISTRICT ZONING CONTROL TABLE**

\* \* \* \*

Zoning Category	§ References	Controls
<b>NON-RESIDENTIAL STANDARDS</b>		
<b>Development Standards</b>		
* * * *		
Use Size	§ 121.4	P up to <del>5,000</del> <u>2,500</u> sq. ft.; C <del>5,000 sq. ft. &amp; above</del> <u>2,501 to 5,000 sq. ft. (1)</u>
* * * *		

\* \* \* \*

Section 5. Formatting of Ordinance; Explanation of Fonts.

1 (a) On March 18, 2024, the Land Use and Transportation Committee of the Board of  
2 Supervisors duplicated Board File No. 231006 to create Board File No. 240260. The  
3 ordinance in File No. 231006 proceeded through the legislative process, was enacted as  
4 Ordinance No. 60-24, and became effective in April 2024. The ordinance in File No. 240260 –  
5 this ordinance – remained at the Land Use and Transportation Committee. This is the third  
6 version of that ordinance.

7 (b) To clearly understand the proposed amendments to existing law contained in this  
8 third version of this ordinance, the ordinance shows in “existing text” font (plain Arial) the law  
9 currently in effect, as amended by Ordinance No. 60-24. This ordinance shows in “Board  
10 amendment” font (double-underlined Arial for additions, and strikethrough Arial for deletions)  
11 amendments to existing law. This ordinance also shows in “Board amendment” font all  
12 amendments to this ordinance made after the file was duplicated, including amendments  
13 approved to earlier versions of this ordinance in the Board File 240260. This ordinance omits  
14 sections of the law currently in effect that are not being amended by this ordinance and were  
15 not proposed for amendments in earlier versions of this ordinance in the Board File 240260.

16 (c) This third version of the ordinance also includes new short and long titles that  
17 describe the ordinance, to reflect changes in existing law. These new titles replace the short  
18 and long titles in the previous two versions of the ordinance, which had included references to  
19 the amendments that became effective with the enactment of Ordinance No. 60-24.  
20

21 Section 6. Effective Date. This ordinance shall become effective 30 days after  
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
24 of Supervisors overrides the Mayor’s veto of the ordinance.  
25

1           Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the “Note” that appears under  
6 the official title of the ordinance.

7  
8 APPROVED AS TO FORM:  
9 DAVID CHIU, City Attorney

10 By: /s/ HEATHER GOODMAN  
11 HEATHER GOODMAN  
12 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**  
*(Substituted by City Attorney – May 1, 2024)*

[Planning Code - 900 Kearny Street Special Use District]

**Ordinance amending the Planning Code to modify the 900 Kearny Street Special Use District to allow an enclosed rooftop building addition with a restricted arts activities use; 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 pursuant to Planning Code, Section 302.**

Existing Law

The Board of Supervisors created the 900 Kearny Street Special Use District (SUD) via Ordinance No. 60-24, in Board File No. 231006, which became effective in April 2024. The SUD provides land use regulations for the parcel located at 900 Kearny Street that differ from the regulations that would otherwise apply. The SUD permits Non-Retail Professional Services Uses on the ground floor and basement levels, and Arts Activities Uses on all floors. The SUD also allows larger individual use sizes by providing that the use size limits and maximums otherwise applicable in the Chinatown Community Business District do not apply for Non-Retail Professional Services Uses. All other ordinances applicable to the 900 Kearny Street property, including other requirements of the Chinatown Community Business District, would continue to apply.

There are no specific provisions in the SUD regarding rooftop structures. Other existing provisions of the Planning Code limit rooftop structures by restricting their bulk, height, and impact on sun access.

Planning Code Section 121.4 provides that use sizes up to 2,500 square feet are permitted, use sizes above 2,500 square feet and up to 5,000 square feet require conditional use authorization, and use sizes above 5,000 square feet are not permitted. Planning Code Section 810 provides that use sizes up to 5,000 square feet are permitted and use sizes above 5,000 square feet require conditional use authorization.

Amendments to Current Law

This ordinance would amend the SUD to allow an enclosed building addition at the roof level up to 735 square feet in floor area and 11 feet in height that is restricted to Arts Activities Uses.

In addition, this ordinance would revise Planning Code Section 810 to align the use size maximums with those provided in Section 121.4.

Background

At the March 18, 2024 Land Use and Transportation Committee meeting, this ordinance was duplicated from Board File No. 231006 and amended to add the rooftop structure provision and the amendments to Section 810 discussed above. The ordinance in File No. 231006 proceeded through the legislative process, was enacted as Ordinance No. 60-24, and became effective in April 2024.

Because the ordinance creating the SUD in Board File No. 231006 is now effective, this ordinance was updated to reflect that new law. Accordingly, this ordinance omits sections of the law currently in effect that are not being amended by this ordinance. Of note, the Zoning Map amendment adopted via the Ordinance No. 60-24 is omitted from this ordinance, as it is existing law not being modified by this ordinance. An detailed explanatory note is included in the ordinance in this Board File No. 240260 as a new Section 5.

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May 3, 2024

Ms. Angela Calvillo, Clerk  
Honorable Supervisor Peskin  
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 2024-002495PCA:  
900 Kearny Street Special Use District  
Board File No. 240260

Planning Commission Recommendation: **Approval with Modification**

Dear Ms. Calvillo and Supervisor Peskin,

On May 2, 2024, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Peskin that would amend the 900 Kearny Street Special Use District by adding a new height exemption and amend the Planning Code to clarify the Use Size maximums applicable in the Chinatown Community Business District. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modifications were as follows:

1. Technical clarification on the proposed rooftop enclosed structure as described under "Anticipated Amendments" of the Planning Department staff report.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. 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 'Veronica Flores', with a stylized flourish at the end.

Veronica Flores for Aaron D. Starr  
*Manager of Legislative Affairs*

cc: Heather Goodman, Deputy City Attorney  
Sunny Angulo, Aide to Supervisor Peskin  
John Carroll, Office of the Clerk of the Board

**Attachments :**

Planning Commission Resolution

Planning Department Executive Summary



# PLANNING COMMISSION RESOLUTION NO. 21553

**HEARING DATE:** May 2, 2024

**Project Name:** 900 Kearny Street Special Use District, Use Sizes in Chinatown Community Business District  
**Case Number:** 2024-002495PCA [Board File No. 240260]  
**Initiated by:** Supervisor Chan / Introduced March 4, 2024  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE 900 KEARNY STREET SPECIAL USE DISTRICT BY ADDING A NEW HEIGHT EXEMPTION; AMEND THE PLANNING CODE TO CLARIFY THE USE SIZE MAXIMUMS APPLICABLE IN THE CHINATOWN COMMUNITY BUSINESS DISTRICT; AND AFFIRM 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 PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on March 18, 2024 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 240260, which would amend the 900 Kearny Street Special Use District by adding a new height exemption and amend the Planning Code to clarify the Use Size maximums applicable in the Chinatown Community Business District;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 2, 2024; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378; and

WHEREAS, the Planning 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and



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

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed recommendation are as follows:

1. Technical clarification on the proposed rooftop enclosed structure as described under "Anticipated Amendments" of the staff report.

## 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:

The proposed Ordinance will allow for an Artist in Residence program within the 900 Kearny Street SUD.

## General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### ARTS ELEMENT

#### OBJECTIVE I-1

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

##### Policy I-1.3

Increase public awareness of the arts in San Francisco by greater promotion of existing art programs and services in the community and schools.

#### OBJECTIVE IV-1

ADVOCATE AND ASSIST IN PROVIDING ARTS EDUCATION PROGRAMMING AT ALL LEVELS.

##### Policy IV-1.1

Advocate for arts education opportunities for all residents of San Francisco.

### 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.

Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

**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.

**OBJECTIVE 6**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

**CHINATOWN AREA PLAN**

**OBJECTIVE 6**

**RETAIN CHINATOWN'S ROLE AS A CAPITAL CITY.**

Policy 6.2

Provide for modest expansion of community business offices related to Capital City role.

*The proposed Ordinance would allow an arts studio or other Arts Activity Uses on rooftop. This new opportunity supports the Arts Element goals of recognizing arts as necessary to the quality of life for all San Franciscans. Additionally, the proposed Ordinance provides more flexibility to attract new businesses to the neighborhood as outlined in the Commerce and Industry Element. Further, the proposed Ordinance supports Chinatown Area Plan Policy 6.2 by providing a modest relaxation of existing controls to allow for compatible uses along Kearny Street.*

**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.*

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.*

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.*

**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.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 2, 2024.

 **Jonas P Ionin**  
Jonas P. Ionin  
Commission Secretary

 Digitally signed by Jonas P Ionin  
Date: 2024.05.02 15:43:20 -07'00'

AYES: Williams, Braun, Imperial, Koppel, Moore, Diamond

NOES: None

ABSENT: None

ADOPTED: May 2, 2024

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# EXECUTIVE SUMMARY

## PLANNING CODE TEXT AMENDMENT

**HEARING DATE:** May 2, 2024

**90-Day Deadline:** June 17, 2024

**Project Name:** 900 Kearny Street Special Use District, Use Sizes in Chinatown Community Business District  
**Case Number:** 2024-002495PCA [Board File No. 240260]  
**Initiated by:** Supervisor Peskin / Introduced March 18, 2024  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533  
**Environmental Review:** Not a Project Under CEQA

**Recommendation:** Approval with Modifications

### Planning Code Amendment

The proposed Ordinance would amend the 900 Kearny Street Special Use District (SUD) by adding a new height exemption and amending the Planning Code to clarify the Use Size maximums applicable in the Chinatown Community Business District.

#### The Way It Is Now:

900 Kearny Street has a 65-N Height/Bulk district. Buildings may not exceed 65 feet in height, except for certain permitted height exemptions.

#### The Way It Would Be:

The 900 Kearny Street SUD would be amended to allow a rooftop enclosed structure with a maximum floor area of 735 square feet and a maximum height of 11 feet above the finished roof, provided it is occupied exclusively by Arts Activities Uses.

## Anticipated Amendments

The Department reached out to Supervisor Peskin's office with one minor clarifying amendment to refine the proposed Ordinance. The amendment is technical in nature and still meets the intent of the Ordinance.

The full Ordinance is included as Exhibit B. An excerpt from proposed Ordinance (page 4, lines 16-18) is included below for quick reference:

*A rooftop enclosed structure with a maximum floor area of 735 square feet and a maximum height of 11 feet above the finished roof is permitted, provided it is occupied exclusively by Arts Activities Uses.*

Proposed language:

*An enclosed building addition is permitted at the roof level provided it is 1) no more than 735 square feet, 2) no more than 11 feet above the finished roof, and 3) only occupied as an Arts Activities Use, subject to the following provisions. Such a building addition is permitted notwithstanding the bulk limits of Section 270, the sun access requirements of Section 132.3, the height limit exemptions for the features specified in Section 260(b), and the limit on the horizontal area for the features specified in Section 260(b)(1). However, such a building addition shall be included in the calculations of the horizontal area for any other proposed building additions or features to determine if other such additions or features meet applicable Code requirements.*

Supervisor Peskin intends to introduce this amendment when this is scheduled for the Land Use and Transportation Committee (LUTC) hearing after the Planning Commission. It is a refinement of the proposed language to make it abundantly clear the proposed rooftop arts studio is not subject to the other Code requirements such as bulk or sun place access.

## Background

The property owner of 900 Kearny Street approached Supervisor Peskin with concerns about the challenges they were facing filling the ground floor vacancy. This commercial space was formerly occupied by a Formula Retail Financial Services Use (d.b.a EastWest Bank) that vacated the space in 2021. Supervisor Peskin introduced the 900 Kearny Street SUD Ordinance to provide more flexibility in terms of permitted Uses and allowable Use Size limits to assist the property owner in finding a new tenant(s).<sup>1</sup> This item was heard at the Planning Commission's November 30, 2023, regularly scheduled meeting. At the hearing, the Commission commended the proposal for being clear and supported the Ordinance unanimously. The Commission recommended approval with one technical amendment as follows:

*Revise Section 810 (Chinatown-Community Business District) to make it consistent with the Use Size limitations in Section 121.4.*

The Ordinance appeared before the LUTC on March 18, 2024. During the hearing, the Ordinance was duplicated and amended to allow for an enclosed roof structure dedicated to an Arts Activity. The original Ordinance

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<sup>1</sup> [Ordinance No. 60-24](#).

establishing the SUD was then forwarded to the Board of Supervisors (BOS) with a positive recommendation. This duplicate Ordinance also incorporates Planning Commission's recommended modification from November 30, 2023 to make the Use Size limits consistent.

## **Issues and Considerations**

### **Supporting the Arts**

The 900 Kearny Street SUD supports arts by allowing Arts Activity Uses all on floors. The intent of the SUD is to provide a space that allows more opportunities for artists to hone their skills in mediums such as painting, small-scale glassworks, and photography. Additionally, the SUD supports live performances or artist exhibitions. This proposed Ordinance expands on this goal by allowing an enclosed rooftop structure dedicated to Arts Activity Uses. The project sponsor intends to use the new rooftop structure for an artist in residence program. In addition to art activities happening on the inside of the building, the developer also has plans to feature a mural by local artist, Jeremy Fisher, on the exterior of the building. This further supports the arts by showcasing a local artist and increasing an arts presence at the property.

### **Permitted Height Exemptions**

Section 260(b) includes exemptions to the permitted height limit. Some examples include mechanical equipment, stair penthouses for emergency stairs, parapets, and chimneys. Section 260(b) also limits the combination of these height exemptions to 30% of the roof area. The proposed Ordinance seeks to add a height exemption that is currently not allowed under Section 260(b) to the SUD. Additionally, the draft language in "Anticipated Amendments" would allow the proposed rooftop enclosure to exceed the maximum 30% of rooftop coverage; however, the draft language ensures that the rooftop enclosure is included in the 30% calculation if any additional additions or features are proposed in the future.

### **Nonconforming Massing**

The existing building at 900 Kearny Street is a legal-noncomplying structure because it does not have setbacks required for taller buildings in this district. The property has a Height/Bulk District of 65-N. This means that building massing above 40 feet in height is limited to a maximum length of 50 feet and a maximum diagonal of 100 feet. The existing building's massing may remain in perpetuity if it is not intensified or enlarged. As the building is legal non-complying, the proposed Ordinance seeks an exemption from the Height/Bulk requirements to allow the proposed rooftop appurtenance.

### **Shadow Analysis**

Chinatown zoning districts have specific requirements intended to preserve as much sunlight as possible on public sidewalks with high pedestrian use. These requirements are outlined in Section 132.3. This proposed Ordinance would waive these requirements as the proposed rooftop structure is minimal in nature; however, the proposed Ordinance cannot waive the Section 295 Shadow Analysis because it was passed as a voter initiative under 1984's Proposition K (Prop. K). Prop. K was in response to growing concern about shadow impacts of buildings taller than 40-foot on the city's open spaces. This includes properties under the jurisdiction of, or designated to be acquired by, the Recreation and Parks Department. Section 295 requires the Planning



Commission to make a finding that any shadow cast on Recreation and Park Department property is insignificant. As this was passed under a ballot initiative, the Board of Supervisors cannot waive the requirement.

The 900 Kearny Street SUD is located within one-quarter of a mile of Portsmouth Square and would thus require a shadow analysis under Prop. K; however, due to the topography and taller buildings in the vicinity, staff does not believe that the proposed enclosed rooftop structure will have a shadow impact on the park.

### General Plan Compliance

The proposed Ordinance would allow an arts studio or other Arts Activity Uses on rooftop. This new opportunity supports the Arts Element goals of recognizing arts as necessary to the quality of life for all San Franciscans. Additionally, the proposed Ordinance provides more flexibility to attract new businesses to the neighborhood as outlined in the Commerce and Industry Element. Further, the proposed Ordinance supports Chinatown Area Plan Policy 6.2 by providing a modest relaxation of existing controls to allow for compatible uses along Kearny Street.

### Racial and Social Equity Analysis

The proposed amendments cannot be directly tied to a negative or positive impact in advancing the City's racial and social equity. There is not enough data to support the claim for the small number of businesses that it will affect.

### Implementation

The Department has determined that this Ordinance will not impact our current implementation procedures.

### Recommendation

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendation is as follows:

1. Technical clarification on the proposed rooftop enclosed structure as described under "Anticipated Amendments."

### Basis for Recommendation

The Department endorses the proposed Ordinance because it supports arts activity and will facilitate a local artist in residence program in the SUD. Additionally, the developer has identified a well-known artist to install a large mural on the building's exterior, further embracing this building as an arts activity hub. To further clarify the allowances and limits intended in the Ordinance, the sponsor is proposing amendments that are detailed above in under "Anticipated Amendments." These amendments were drafted by the Planning Department in collaboration with the City Attorney's Office. They do not substantively impact the sponsor's original intent. Therefore, the Department recommends the Planning Commission approve the proposed Ordinance with modification as described under "Anticipated Amendments".

## Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

## Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Sections 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

## Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

### Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 240260
- Exhibit C: Preliminary Plans

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# PLANNING COMMISSION DRAFT RESOLUTION

**HEARING DATE: May 2, 2024**

**Project Name:** 900 Kearny Street Special Use District, Use Sizes in Chinatown Community Business District  
**Case Number:** 2024-002495PCA [Board File No. 240260]  
**Initiated by:** Supervisor Chan / Introduced March 4, 2024  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE 900 KEARNY STREET SPECIAL USE DISTRICT BY ADDING A NEW HEIGHT EXEMPTION; AMEND THE PLANNING CODE TO CLARIFY THE USE SIZE MAXIMUMS APPLICABLE IN THE CHINATOWN COMMUNITY BUSINESS DISTRICT; AND AFFIRM 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 PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on March 18, 2024 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 240260, which would amend the 900 Kearny Street Special Use District by adding a new height exemption and amend the Planning Code to clarify the Use Size maximums applicable in the Chinatown Community Business District;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 2, 2024; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378; and

WHEREAS, the Planning 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed recommendation are as follows:

1. Technical clarification on the proposed rooftop enclosed structure as described under "Anticipated Amendments."

## 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:

The proposed Ordinance will allow for an Artist in Residence program within the 900 Kearny Street SUD.

## General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

### ARTS ELEMENT

#### OBJECTIVE I-1

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

##### Policy I-1.3

Increase public awareness of the arts in San Francisco by greater promotion of existing art programs and services in the community and schools.

#### OBJECTIVE IV-1

ADVOCATE AND ASSIST IN PROVIDING ARTS EDUCATION PROGRAMMING AT ALL LEVELS.

##### Policy IV-1.1

Advocate for arts education opportunities for all residents of San Francisco.

## 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.

#### Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

### 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.

### OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

#### Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

## CHINATOWN AREA PLAN

### OBJECTIVE 6

RETAIN CHINATOWN'S ROLE AS A CAPITAL CITY.

#### Policy 6.2

Provide for modest expansion of community business offices related to Capital City role.

*The proposed Ordinance would allow an arts studio or other Arts Activity Uses on rooftop. This new opportunity supports the Arts Element goals of recognizing arts as necessary to the quality of life for all San Franciscans. Additionally, the proposed Ordinance provides more flexibility to attract new businesses to the neighborhood as outlined in the Commerce and Industry Element. Further, the proposed Ordinance supports Chinatown Area Plan Policy 6.2 by providing a modest relaxation of existing controls to allow for compatible uses along Kearny Street.*

## 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.*

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.*

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.*

**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.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 2, 2024

Jonas P. Ionin  
*Commission Secretary*

AYES:

NOES:

ABSENT:

ADOPTED: May 2, 2024



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[Planning Code, Zoning Map - 900 Kearny Street Special Use District, Use Sizes in Chinatown Community Business District]

**Ordinance amending the Planning Code and Zoning Map to create the 900 Kearny Street Special Use District; amending the Planning Code to clarify the Use Size maximums applicable in the Chinatown Community Business District; and 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 pursuant to 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. Environmental 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. 240260 and is incorporated herein by reference. The Board affirms this determination.

(b) On \_\_\_\_\_, 2024, the Planning Commission, in Resolution No. \_\_\_\_\_, adopted findings that the actions contemplated in this ordinance are consistent, on balance, with the

1 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
2 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
3 Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference. In addition,  
4 the Board finds that the 900 Kearny Street SUD is consistent with the General Plan because  
5 the Chinatown Area Plan, in which it is located, identifies Kearny Street as an area for  
6 potential office development, in furtherance of plan objectives and policies. Objective 6 of the  
7 plan ("Retain Chinatown's Role as a Capital City") provides that "Chinatown functions as a  
8 capital city and center of civic, religious and political organization, as well as a specialized  
9 shopping area for the larger Chinese population of the Bay Area." Policy 6.2 of the plan  
10 ("Provide for modest expansion of community business offices related to Capital City role")  
11 specifically states that, "Kearny Street and vicinity have more potential for added office  
12 development than other parts of Chinatown." The 900 Kearny Street SUD will ~~would~~ allow  
13 Non-Retail Professional Services uses to utilize vacant space and provide for the modest  
14 expansion of community business uses consistent with planning goals, while expanding the  
15 scope of tenants that may occupy the site. In addition, the 900 Kearny Street SUD will further  
16 the City's goal of facilitating economic diversification and revitalization by expanding the scope  
17 of uses permitted at 900 Kearny Street.

18 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
19 amendments will serve the public necessity, convenience, and welfare for the reasons set  
20 forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates such  
21 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
22 Supervisors in File No. \_\_\_\_\_.

23  
24 Section 2. General Findings.  
25

1 (a) The 900 Kearny Street Special Use District (SUD) is intended to facilitate reuse of  
2 the property located at 900 Kearny Street. The property is located within the Chinatown  
3 Community Business District, established in Planning Code Section 810, which prohibits  
4 Non-Retail Professional Services uses on the first story and in the basement of buildings,  
5 while allowing such uses on the second story and higher.

6 (b) The 900 Kearny Street SUD will ~~would~~ facilitate the reuse of the ground and  
7 basement floors of 900 Kearny Street and exempt the site from the non-residential use size  
8 limits and use size maximums under Sections 121.4 and 810 of the Planning Code. All other  
9 applicable Planning Code provisions would continue to apply to the SUD. In the face of the  
10 COVID-19 pandemic, commercial vacancy rates have risen to over 28% throughout the City.  
11 These high vacancy rates have persisted, particularly in the area where 900 Kearny Street is  
12 located, in the blocks generally at the intersection of Chinatown, North Beach, Jackson  
13 Square, and the Financial District. The current restrictions applicable to Non-Retail  
14 Professional Services uses within the Chinatown Community Business District exacerbate the  
15 difficulty of building owners to support existing businesses and tenants, and to attract new  
16 business and tenants.

17 (c) The 900 Kearny Street SUD will facilitate increasing the presence of arts in the  
18 area by permitting Arts Activities Uses on all existing six floors of the building. In addition, the  
19 SUD would allow a new rooftop structure to be occupied by an artist studio or other Arts  
20 Activities Uses. The property owner and a well-known artist have agreed to install a large  
21 mural on the building's exterior, further identifying the building as a potential space for artists.  
22

23 Section 3. Article 2 of the Planning Code is hereby amended by adding Section  
24 249.95, to read as follows:

25 **SEC. 249.95. 900 KEARNY STREET SPECIAL USE DISTRICT.**

1           (a) **Purpose.** The 900 Kearny Street Special Use District is intended to facilitate the reuse of the  
2 ground and basement floors of 900 Kearny Street, which were previously occupied by a Formula Retail  
3 Financial Services Use that vacated the space in 2021.

4           (b) **Location.** The 900 Kearny Street Special Use District consists of Assessor's Block 0176, Lot  
5 011. Its boundaries are shown on Special Use District Map SU01 of the Zoning Map, and consists of  
6 the area within a perimeter established by Columbus Street to the east, Jackson Street to the south, and  
7 Kearny Street to the west, and adjacent to the Sentinel Building/Columbus Tower to the north.

8           (c) **Controls.** Applicable provisions of the Planning Code shall apply to the 900 Kearny Street  
9 Special Use District except as otherwise provided in this Section 249.95. In the event of a conflict  
10 between other provisions of the Planning Code and this Section, this Section shall control.

11           (1)     Non-Retail Professional Services Uses shall be permitted on all floors, including  
12 the First Story and Basement.

13           (2)     The non-residential use size limits and use size maximums in Sections 121.4 and  
14 810 shall not apply to Non-Retail Professional Services Uses.

15           (3)     Arts Activities Uses shall be permitted on all floors.

16           (4)     A rooftop enclosed structure with a maximum floor area of 735 square  
17 feet and a maximum height of 11 feet above the finished roof is permitted, provided it is  
18 occupied exclusively by Arts Activities Uses.

19  
20           Section 4. Zoning Map. The Planning Code is hereby amended by revising Special  
21 Use District Map SU01 of the Zoning Map of the City and County of San Francisco, as follows:

Description of Property	Special Use District Hereby Approved
Assessor's Block 0176, Lot 011	900 Kearny Street

Section 5. Article 8 of the Planning Code is hereby amended by revising Section 810 to read as follows:

**SEC. 810. CHINATOWN COMMUNITY BUSINESS DISTRICT.**

\* \* \* \*

**Table 810**

**CHINATOWN COMMUNITY BUSINESS DISTRICT ZONING CONTROL TABLE**

\* \* \* \*

Zoning Category	§ References	Controls
<b>NON-RESIDENTIAL STANDARDS</b>		
<b>Development Standards</b>		
* * * *		
Use Size	§ 121.4	P up to <del>5,000</del> <u>2,500</u> sq. ft.; C <del>5,000</del> sq. ft. & above <del>2,501 to 5,000 sq. ft. (1)</del>
* * * *		

\* \* \* \*

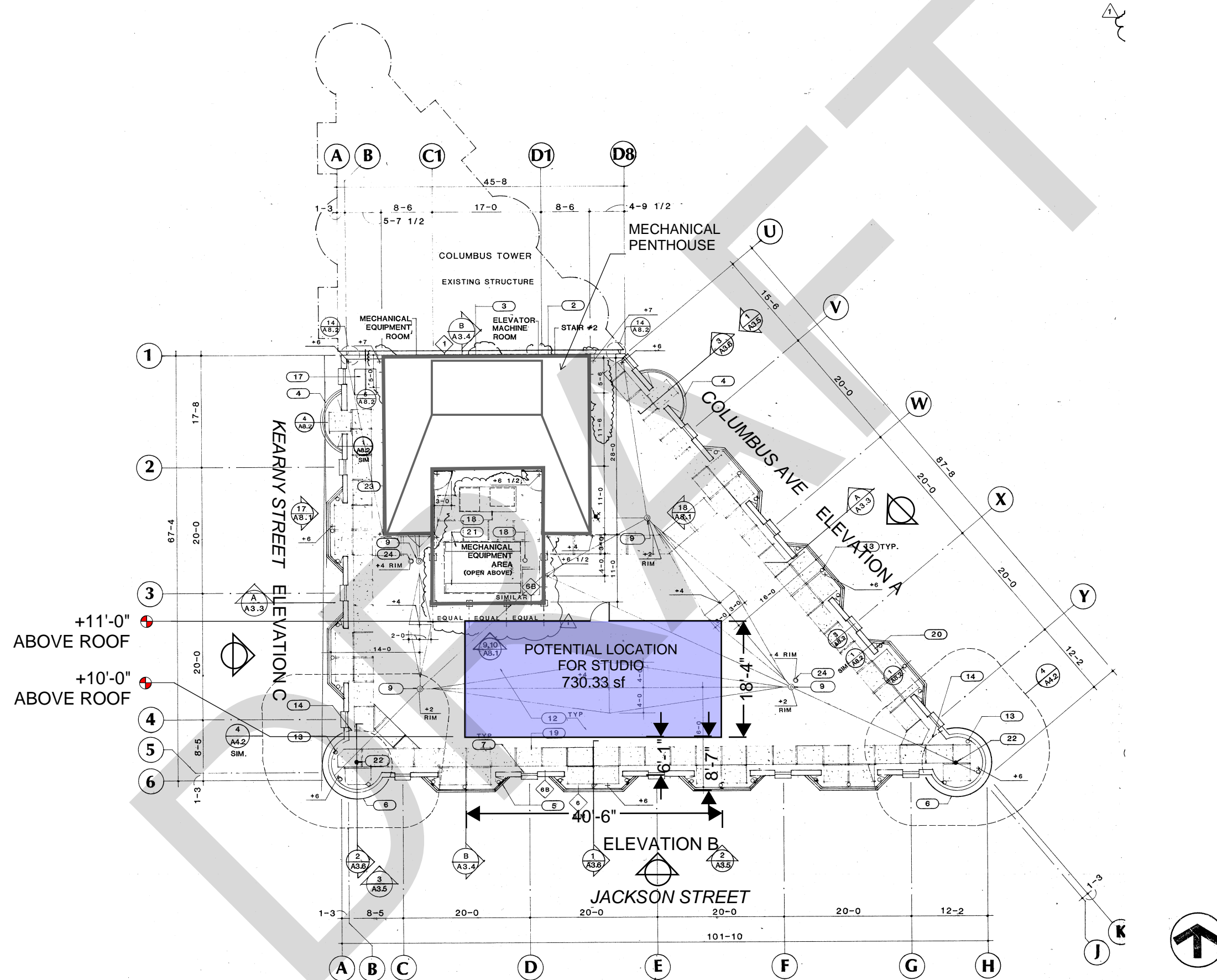
Section 6. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

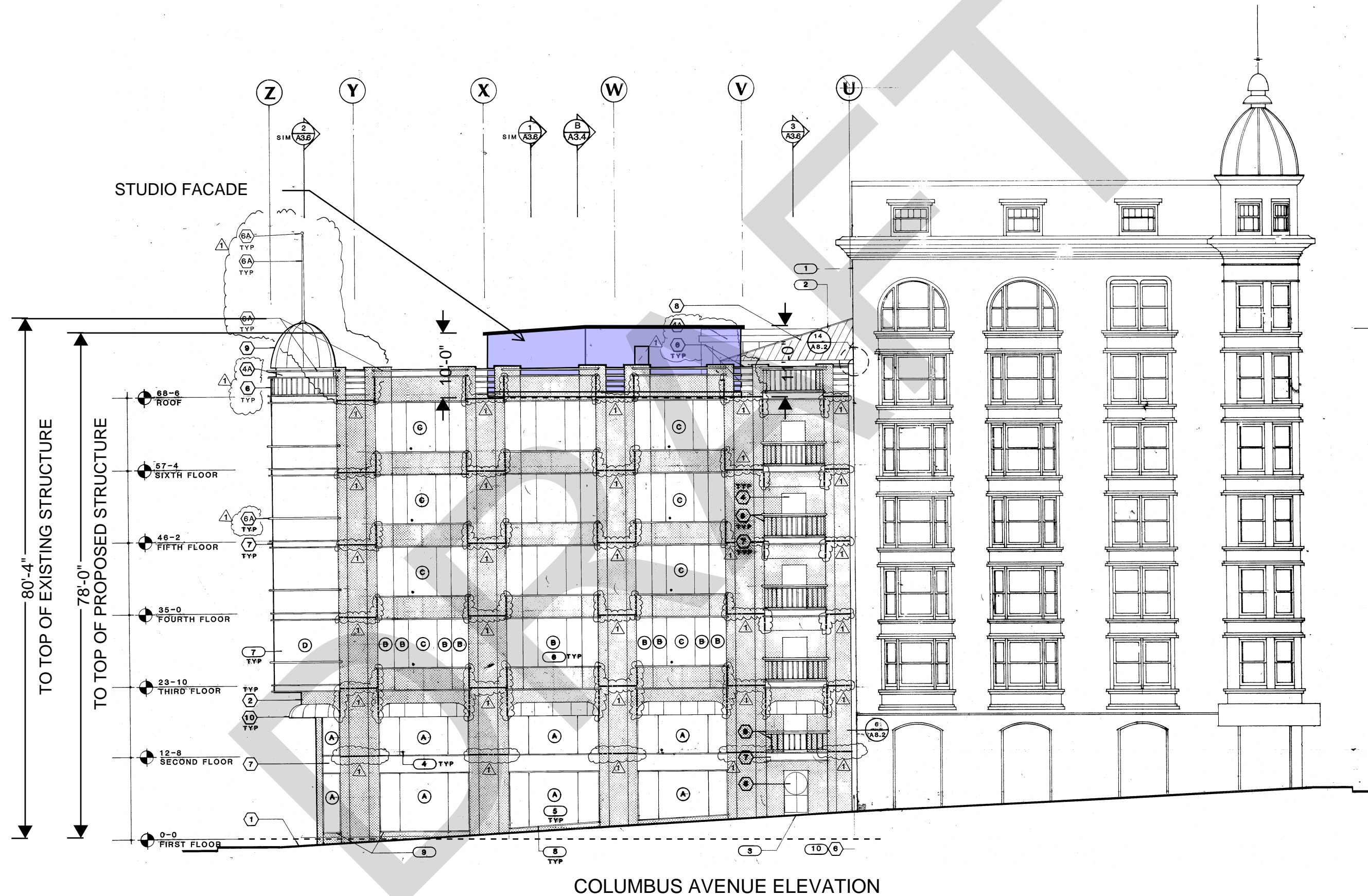
By: /s/ HEATHER GOODMAN  
HEATHER GOODMAN  
Deputy City Attorney

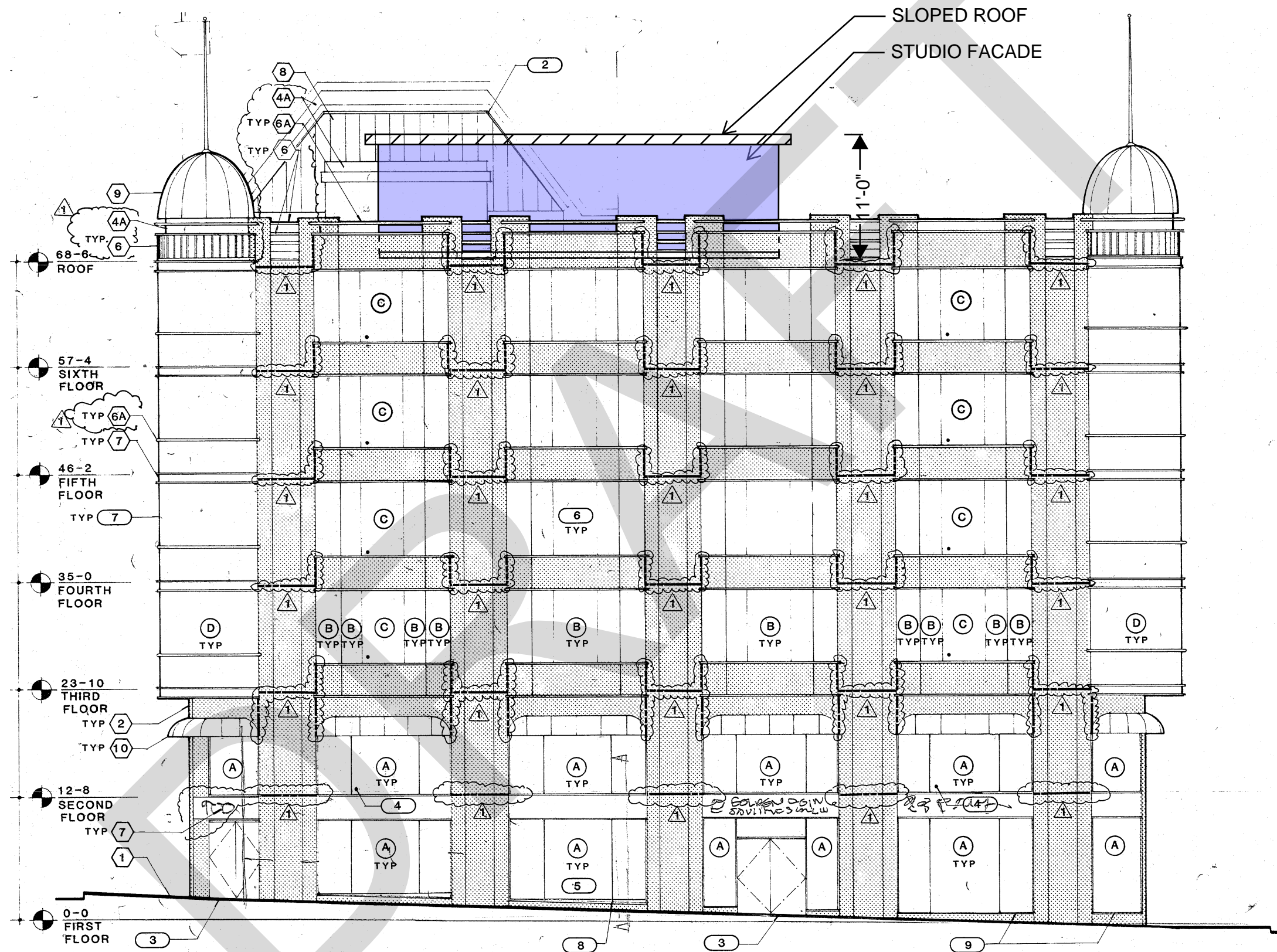
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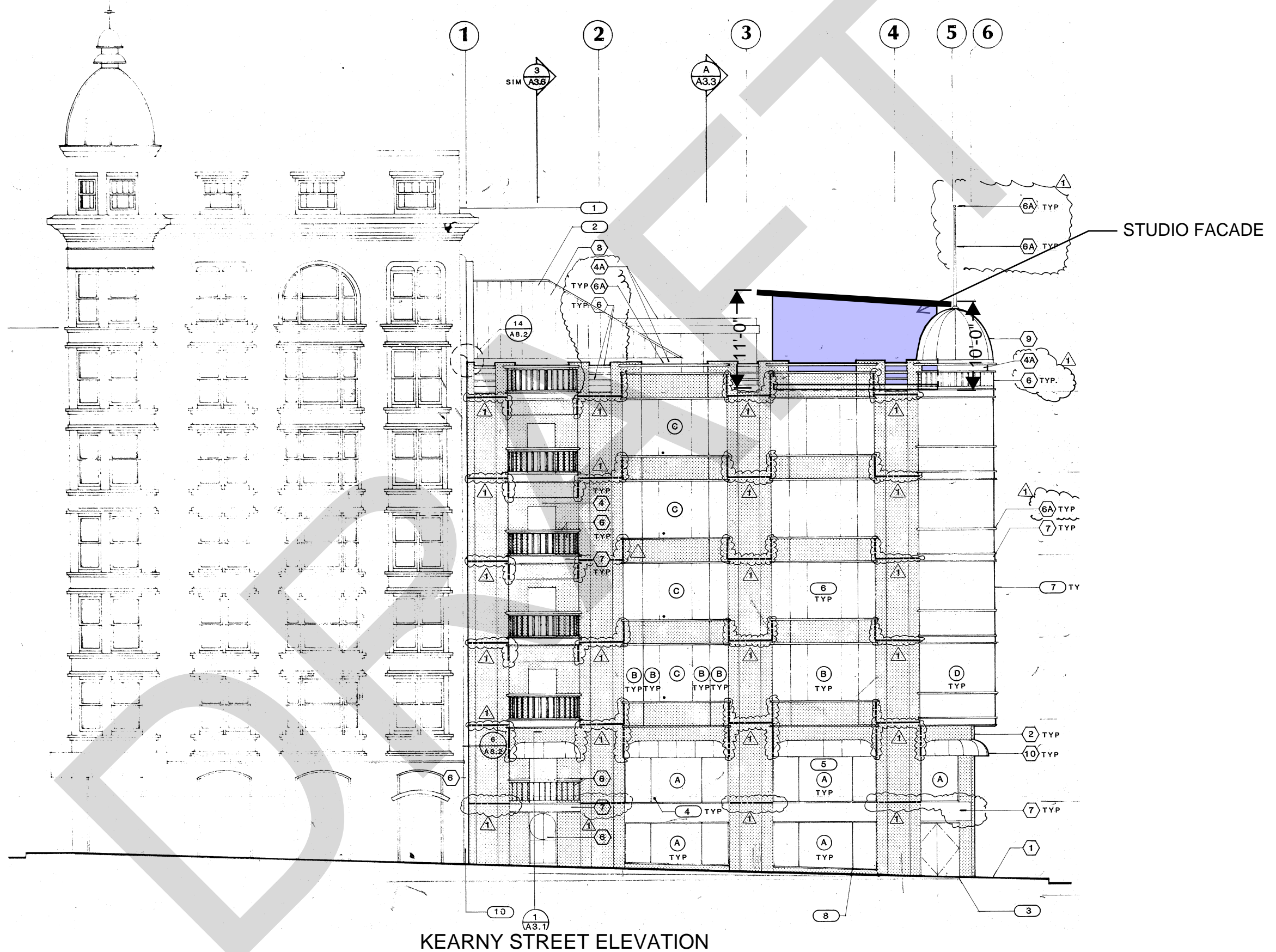






JACKSON STREET ELEVATION







December 27, 2023

Ms. Angela Calvillo, Clerk  
Supervisor Peskin  
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 2023-009433PCAMAP:  
900 Kearny Street Special Use District  
Board File No. 231006

**Planning Commission Recommendation: Approval with Modification**

Dear Ms. Calvillo and President Peskin,

On November 30, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by President Peskin that would amend various sections of the Planning Code. At the hearing the Planning Commission recommended approval with modification.

The Commission's proposed modification was as follows:

1. Revise Section 810 (Chinatown-Community Business District) to make it consistent with the Use Size limitations in Section 121.4.

The proposed amendments are not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the change recommended by the Commission.

Please find attached documents relating to the actions of the Commission. 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". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr  
*Manager of Legislative Affairs*

cc: Heather Goodman, Deputy City Attorney  
Sunny Angulo, Aide to Supervisor Peskin  
John Carroll, Office of the Clerk of the Board

**Attachments :**

Planning Commission Resolution  
Planning Department Executive Summary



# PLANNING COMMISSION RESOLUTION NO. 21453

**HEARING DATE: NOVEMBER 30, 2023**

**Project Name:** 900 Kearny Street Special Use District  
**Case Number:** 2023-009433PCAMAP [Board File No. 231006]  
**Initiated by:** Supervisor Peskin / Introduced September 26, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE AND ZONING MAP TO CREATE THE 900 KEARNY STREET SPECIAL USE DISTRICT; AND 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 PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on September 26, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 231006, which would amend the Planning Code and Zoning Map to create the 900 Kearny Street Special Use District;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 30, 2023; and,

WHEREAS, the proposed Ordinance are not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because they do not result in a physical change in the environment; and

WHEREAS, the Planning 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Planning Commission hereby **approves with modification** the proposed ordinance. The Commission's proposed recommendation is as follows:

1. Revise Section 810 (Chinatown-Community Business District) to make it consistent with the Use Size limitations in Section 121.4.

## 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:

The proposed Ordinance helps address storefront vacancies by providing more flexibility at the site.

## General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### ARTS ELEMENT

#### OBJECTIVE I-1

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

##### Policy I-1.3

Increase public awareness of the arts in San Francisco by greater promotion of existing art programs and services in the community and schools.

#### OBJECTIVE IV-1

ADVOCATE AND ASSIST IN PROVIDING ARTS EDUCATION PROGRAMMING AT ALL LEVELS.

##### Policy IV-1.1

Advocate for arts education opportunities for all residents of San Francisco.

### 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.

Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

**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.

**OBJECTIVE 6**

**MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

**CHINATOWN AREA PLAN**

**OBJECTIVE 6**

**RETAIN CHINATOWN'S ROLE AS A CAPITAL CITY.**

Policy 6.2

Provide for modest expansion of community business offices related to Capital City role.

*The proposed Ordinance would allow Non-Retail Professional Services on the First Story and Basement and Arts Activities at the project site where it is currently prohibited helping fill the vacancy. This new opportunity supports the Arts Element goals of recognizing arts as necessary to the quality of life for all San Franciscans. Additionally, the proposed Ordinance provides more flexibility and finding new ways to attract new businesses to the neighborhood as outlined in the Commerce and Industry Element. This will support the property owner in filling the current vacancy. Further, the proposed Ordinance supports Chinatown Area Plan Policy 6.2 by providing a modest relaxation of existing controls to allow for compatible uses along Kearny Street.*

**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.*

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.*

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.*

**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.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATION the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 30, 2023.



Jonas P. Ionin  
Commission Secretary

**Jonas P Ionin**

Digitally signed by Jonas P Ionin  
Date: 2023.12.11 16:14:34 -08'00'

AYES: Braun, Ruiz, Diamond, Imperial, Koppel, Tanner

NOES: None

ABSENT: Moore

ADOPTED: November 30, 2023

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# EXECUTIVE SUMMARY

## PLANNING CODE TEXT AND ZONING MAP AMENDMENT

**HEARING DATE:** November 30, 2023

**90-Day Deadline:** January 1, 2024

**Project Name:** 900 Kearny Street Special Use District  
**Case Number:** 2023-009433PCAMAP [Board File No. 231006]  
**Initiated by:** Supervisor Peskin / Introduced September 26, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533  
**Environmental Review:** Not a Project Under CEQA

**Recommendation:** Approval with Modification

### Planning Code Amendment

The proposed Ordinance would amend the Planning Code and Zoning Map to create the 900 Kearny Street Special Use District (SUD).

The Way It Is Now:	The Way It Would Be:
The property at 900 Kearny Street is zoned Chinatown-Community Business (CCB).	The 900 Kearny Street SUD would be created at Assessor's Parcel No. 0176, Block Lot No. 011. The underlying zoning would remain CCB.
Non-Retail Professional Services are not permitted on the First Story. <sup>1</sup>	Non-Retail Professional Services would be permitted on the First Story and Basement.
Entertainment, Arts and Recreation Uses are generally not permitted in CCB, except for some exceptions listed in Sec. 810.	The SUD would permit an Arts Activity, a retail Entertainment, Arts and Recreation Use, on all floors.

<sup>1</sup> Non-Retail Professional Services are permitted on the Second Floor and above.

The maximum Use Size limit in the CCB District is up to 2,500 square feet, with legal, non-conforming Use Sizes as an exception. Use Sizes up to 5,000 square feet require a Conditional Use Authorization (CUA).	The SUD would not have a Use Size limit.
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Background

The proposed SUD is at 900 Kearny Street, the former location of a former Formula Retail Financial Services Use (d.b.a EastWest Bank) that vacated the space in 2021. The property owner approached Supervisor Peskin with concerns about the challenges they are facing filling the space. They recently filed an over-the-counter permit to subdivide the current space into four different code-complying spaces with each space not exceeding 2,500 square feet in size. The proposed SUD would provide more flexibility in terms of permitted Uses and allowable Use Size limits to assist the property owner in finding a new tenant(s).

Issues and Considerations

- A nonconforming Use Size may continue in perpetuity if the Use Size is not intensified.

Nonconforming Use Size

A legal, nonconforming Use Size may remain in perpetuity if the Use Size is not intensified or enlarged; however, this nonconformity only applies to one Use Size, not to all Uses on the parcel. In the example of 900 Kearny Street, the nonconforming Use Size can remain in place, but only for one tenant space. If the property owner were to subdivide the existing space into multiple tenant spaces, all other Uses would need to comply with the Code requirements. For the CCB Zoning District, this means that Use Sizes are only permitted up to 2,500 square feet, or up to 5,000 square feet with a CUA.

Rezoning

An alternative path that would achieve the same goals as the proposed Ordinance involves rezoning this parcel to C-2 District: Community Business (C-2). As seen in Figure 1, 900 Kearny Street is directly adjacent to the C-2, which is more permissive than the proposed SUD. This rezoning path would also allow for other Uses at this parcel such as

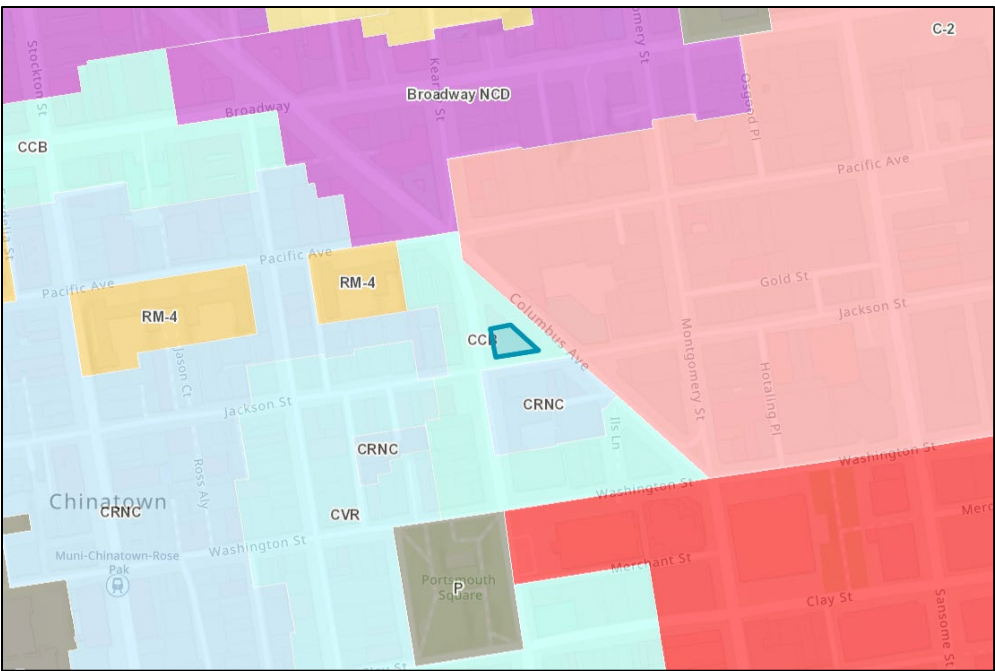


Figure 1: Zoning Districts at and around 900 Kearny Street

Entertainment, Arts and Recreation Uses (the umbrella Land Use category for Arts Activity). Rezoning this parcel (or even Block) would be more straightforward; however, the Department understands that the SUD approach was favored by the community since it was more targeted.

### General Plan Compliance

The proposed Ordinance would allow Non-Retail Professional Services on the First Story and Basement and Arts Activities at the project site where it is currently prohibited helping fill the vacancy. This new opportunity supports the Arts Element goals of recognizing arts as necessary to the quality of life for all San Franciscans. Additionally, the proposed Ordinance provides more flexibility and finding new ways to attract new businesses to the neighborhood as outlined in the Commerce and Industry Element. This will support the property owner in filling the current vacancy. Further, the proposed Ordinance supports Chinatown Area Plan Policy 6.2 by providing a modest relaxation of existing controls to allow for compatible uses along Kearny Street.

### Racial and Social Equity Analysis

The proposed amendments cannot be directly tied to a negative or positive impact in advancing the City's racial and social equity. There is not enough data to support the claim for the small number of businesses that it will affect.

### Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

### Recommendation

The Department recommends that the Commission *approve with modification* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendation is as follows:

1. Revise Section 810 (Chinatown-Community Business District) to make it consistent with the Use Size limitations in Section 121.4.

### Basis for Recommendation

The Department endorses the proposed Ordinance as it addresses a significant vacancy in Chinatown, contributing to the preservation of the neighborhood's vibrancy. Notably, it does so in a targeted manner that respects the desires and needs of the Chinatown community. Aligned with the General Plan, the proposed ordinance introduces art-related uses to the neighborhood and grants the building owner greater flexibility in attracting new businesses. Further, the building's existing configuration, which was designed for one tenant in an open floor plan, makes it difficult to reconfigure the space so that it can comply with existing zoning. The relaxation of the use size controls in the proposed SUD, along with the new use allowances, will provide the necessary flexibility to help fill this unique space. In addition to recommending approval of the SUD, the Department would also like to use this opportunity to fix a code error, as described below.

**Recommendation 1:** Revise Section 810 (Chinatown-Community Business District) to make it consistent with the Use Size limitations in Section 121.4.

The current CCB Use Size controls are inconsistent in the Code:

- Section 121.4: Use Size limit permitted up to 2,500 square feet, or up to 5,000 square feet with a CUA and
- Section 810: Use Size limit permitted up to 5,000 square feet, or 5,000 square feet or greater with a CUA.

This is a clerical error created by Board File 210600, Ordinance No. 197-21. Section 810 should be revised to match Section 121.4 under this Ordinance. When there is a discrepancy between a zoning control table and another section of the Code, generally the other section trumps the zoning control table.

## **Required Commission Action**

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

## **Environmental Review**

The proposed amendments are not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because they do not result in a physical change in the environment.

## **Public Comment**

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

### **Attachments:**

- Exhibit A: Draft Planning Commission Resolution  
Exhibit B: Board of Supervisors File No. 231006



# PLANNING COMMISSION DRAFT RESOLUTION

**HEARING DATE: November 30, 2023**

**Project Name:** 900 Kearny Street Special Use District  
**Case Number:** 2023-009433PCAMAP [Board File No. 231006]  
**Initiated by:** Supervisor Peskin / Introduced September 26, 2023  
**Staff Contact:** Veronica Flores, Legislative Affairs  
veronica.flores@sfgov.org, 628-652-7525  
**Reviewed by:** Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, (628) 652-7533

**RESOLUTION APPROVING WITH MODIFICATION A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE AND ZONING MAP TO CREATE THE 900 KEARNY STREET SPECIAL USE DISTRICT; AND 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 PURSUANT TO PLANNING CODE, SECTION 302.**

WHEREAS, on September 26, 2023 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 231006, which would amend the Planning Code and Zoning Map to create the 900 Kearny Street Special Use District;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 30, 2023; and,

WHEREAS, the proposed Ordinance are not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because they do not result in a physical change in the environment; and

WHEREAS, the Planning 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 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

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

MOVED, that the Planning Commission hereby **approves with modification** the proposed ordinance. The Commission's proposed recommendation is as follows:

1. Revise Section 810 (Chinatown-Community Business District) to make it consistent with the Use Size limitations in Section 121.4.

## 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:

The proposed Ordinance helps address storefront vacancies by providing more flexibility at the site.

## General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

### ARTS ELEMENT

#### OBJECTIVE I-1

RECOGNIZE THE ARTS AS NECESSARY TO THE QUALITY OF LIFE FOR ALL SEGMENTS OF SAN FRANCISCO.

##### Policy I-1.3

Increase public awareness of the arts in San Francisco by greater promotion of existing art programs and services in the community and schools.

#### OBJECTIVE IV-1

ADVOCATE AND ASSIST IN PROVIDING ARTS EDUCATION PROGRAMMING AT ALL LEVELS.

##### Policy IV-1.1

Advocate for arts education opportunities for all residents of San Francisco.

### 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.

#### Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

### 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.

### OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

#### Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

### CHINATOWN AREA PLAN

### OBJECTIVE 6

RETAIN CHINATOWN'S ROLE AS A CAPITAL CITY.

#### Policy 6.2

Provide for modest expansion of community business offices related to Capital City role.

*The proposed Ordinance would allow Non-Retail Professional Services on the First Story and Basement and Arts Activities at the project site where it is currently prohibited helping fill the vacancy. This new opportunity supports the Arts Element goals of recognizing arts as necessary to the quality of life for all San Franciscans. Additionally, the proposed Ordinance provides more flexibility and finding new ways to attract new businesses to the neighborhood as outlined in the Commerce and Industry Element. This will support the property owner in filling the current vacancy. Further, the proposed Ordinance supports Chinatown Area Plan Policy 6.2 by providing a modest relaxation of existing controls to allow for compatible uses along Kearny Street.*

## 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.*

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.*

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.*

**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.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATION the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 30.

Jonas P. Ionin  
*Commission Secretary*

AYES:

NOES:

ABSENT:

ADOPTED: November 30, 2023

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## EXHIBIT B

[Planning Code, Zoning Map - 900 Kearny Street Special Use District]

**Ordinance amending the Planning Code and Zoning Map to create the 900 Kearny Street Special Use District; and 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 pursuant to 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 ~~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. Environmental 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.

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

1 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference. In  
2 addition, the Board finds that the 900 Kearny Street SUD is consistent with the General Plan  
3 because the Chinatown Area Plan, in which it is located, identifies Kearny Street as an area  
4 for potential office development, in furtherance of plan objectives and policies. Objective 6 of  
5 the plan (“Retain Chinatown’s Role as a Capital City”) provides that “Chinatown functions as a  
6 capital city and center of civic, religious and political organization, as well as a specialized  
7 shopping area for the larger Chinese population of the Bay Area.” Policy 6.2 of the plan  
8 (“Provide for modest expansion of community business offices related to Capital City role”)   
9 specifically states that, “Kearny Street and vicinity have more potential for added office  
10 development than other parts of Chinatown.” The 900 Kearny Street SUD would allow Non-  
11 Retail Professional Services uses to utilize vacant space and provide for the modest  
12 expansion of community business uses consistent with planning goals, while expanding the  
13 scope of tenants that may occupy the site. In addition, the 900 Kearny Street SUD will further  
14 the City’s goal of facilitating economic diversification and revitalization by expanding the scope  
15 of uses permitted at 900 Kearny Street.

16 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
17 amendments will serve the public necessity, convenience, and welfare for the reasons set  
18 forth in Planning Commission Resolution No. \_\_\_\_\_, and the Board incorporates such  
19 reasons herein by reference. A copy of said resolution is on file with the Clerk of the Board of  
20 Supervisors in File No. \_\_\_\_\_.

21  
22 Section 2. General Findings.

23 (a) The 900 Kearny Street Special Use District (SUD) is intended to facilitate reuse of  
24 the property located at 900 Kearny Street. The property is located within the Chinatown  
25 Community Business District, established in Planning Code Section 810, which prohibits

1 Non-Retail Professional Services uses on the first story and in the basement of buildings,  
2 while allowing such uses on the second story and higher.

3 (b) The 900 Kearny Street SUD would facilitate the reuse of the ground and basement  
4 floors of 900 Kearny Street and exempt the site from the non-residential use size limits and  
5 use size maximums under Sections 121.4 and 810 of the Planning Code. All other applicable  
6 Planning Code provisions would continue to apply to the SUD. In the face of the COVID-19  
7 pandemic, commercial vacancy rates have risen to over 28% throughout the City. These high  
8 vacancy rates have persisted, particularly in the area where 900 Kearny Street is located, in  
9 the blocks generally at the intersection of Chinatown, North Beach, Jackson Square, and the  
10 Financial District. The current restrictions applicable to Non-Retail Professional Services uses  
11 within the Chinatown Community Business District exacerbate the difficulty of building owners  
12 to support existing businesses and tenants, and to attract new business and tenants.

13  
14 Section 3. Article 2 of the Planning Code is hereby amended by adding Section  
15 249.95, to read as follows:

16 **SEC. 249.95. 900 KEARNY STREET SPECIAL USE DISTRICT.**

17 **(a) Purpose.** *The 900 Kearny Street Special Use District is intended to facilitate the reuse of the*  
18 *ground and basement floors of 900 Kearny Street, which were previously occupied by a Formula Retail*  
19 *Financial Services Use that vacated the space in 2021.*

20 **(b) Location.** *The 900 Kearny Street Special Use District consists of Assessor's Block 0176, Lot*  
21 *011. Its boundaries are shown on Special Use District Map SU01 of the Zoning Map, and consists of*  
22 *the area within a perimeter established by Columbus Street to the east, Jackson Street to the south, and*  
23 *Kearny Street to the west, and adjacent to the Sentinel Building/Columbus Tower to the north.*



(c) **Controls.** Applicable provisions of the Planning Code shall apply to the 900 Kearny Street Special Use District except as otherwise provided in this Section 249.95. In the event of a conflict between other provisions of the Planning Code and this Section, this Section shall control.

(1) Non-Retail Professional Services Uses shall be permitted on all floors, including the First Story and Basement.

(2) The non-residential use size limits and use size maximums in Sections 121.4 and 810 shall not apply to Non-Retail Professional Services Uses.

(3) Arts Activities Uses shall be permitted on all floors.

Section 4. Zoning Map. The Planning Code is hereby amended by revising Special Use District Map SU01 of the Zoning Map of the City and County of San Francisco, as follows:

Description of Property	Special Use District Hereby Approved
Assessor's Block 0176, Lot 011	900 Kearny Street

Section 5. 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/ HEATHER GOODMAN  
HEATHER GOODMAN  
Deputy City Attorney

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BOARD of SUPERVISORS



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

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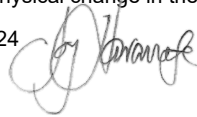
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MEMORANDUM

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Date: March 18, 2024  
To: Planning Department/Planning Commission  
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Re-Referral - File No. 240260 – Version 2  
Planning Code, Zoning Map - 900 Kearny Street Special Use District, Use Sizes in  
Chinatown Community Business District

- 
- ☒ California Environmental Quality Act (CEQA) Determination *(California Public Resources Code, Sections 21000 et seq.)* Not defined as a project under CEQA Guidelines sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.  
☒ Ordinance / Resolution 04/01/2024   
☐ 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](mailto:john.carroll@sfgov.org).

BOARD of SUPERVISORS



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

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MEMORANDUM

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Date: October 4, 2023  
To: Planning Department/Planning Commission  
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 231006  
Planning Code, Zoning Map - 900 Kearny Street Special Use District

☒ California Environmental Quality Act (CEQA) Determination  
(*California Public Resources Code, Sections 21000 et seq.*)

☒ Ordinance / Resolution

☐ Ballot Measure

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

11/6/2023

A handwritten signature in black ink, appearing to be "John Carroll", written over the date.

☒ 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](mailto:john.carroll@sfgov.org).

BOARD of SUPERVISORS



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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

TO: Katy Tang, Director  
Small Business Commission, City Hall, Room 448

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: October 10, 2023

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Land Use and Transportation Committee

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 231006**

**Ordinance amending the Planning Code and Zoning Map to create the 900 Kearny Street Special Use District; and 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 pursuant to Planning Code, Section 302.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Senior Policy Analyst/Commission Secretary

\*\*\*\*\*

**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

\_\_\_\_\_ **No Comment**

\_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**



**MYRNA MELGAR**

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DATE: May 1, 2024

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee  
COMMITTEE REPORT

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Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, May 7, 2024.

**File No. 240260**

**Planning Code, Zoning Map - 900 Kearny Street Special Use  
District, Use Sizes in Chinatown Community Business District**  
Sponsor: Peskin

This matter will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, May 6, 2024.



615 Grant Avenue  
San Francisco, CA 94108  
TEL 415.984.1450  
FAX 415.362.7992  
TTY 415.984.9910  
[www.chinatowncdc.org](http://www.chinatowncdc.org)

September 20, 2023

President Aaron Peskin  
San Francisco Board of Supervisors  
City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Re: 900 Kearny Street, San Francisco  
Property Address: 900 Kearny Street  
Block/Lot No: 0176/011

Dear President Peskin:

Chinatown Community Development Center supports the proposal to establish the 900 Kearny Special Use District.

It is important for the Chinatown community to have an urban streetscape without commercial vacancies. The unit spanning from the basement through second story of 900 Kearny Street has been vacant since East West Bank moved out of the space during the COVID-19 pandemic. The property's current zoning restrictions have severely limited the types of tenants that can occupy the space causing it to sit vacant for almost two years. Allowing Non-Retail Professional Service uses will activate the block and help surrounding businesses with commercial activity and pedestrian traffic, while not expanding the footprint of existing buildings.

CCDC also supports the creativity of the project sponsor in incorporating the mural art of Jeremy Fish and commitment to support small businesses in Chinatown and North Beach.

Sincerely,

Malcolm Yeung  
Executive Director  
Chinatown Community Development Center



September 18, 2023

President Aaron Peskin

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

Re: 900 Kearny Street, San Francisco

Property Address: 900 Kearny Street  
Block/Lot No: 0176/011

Dear President Peskin:

The Chinatown Merchants Association supports the proposal to establish the 900 Kearny Special Use District.

The Chinatown Merchants Association is comprised of many of Chinatown's small businesses and supports economic development in the neighborhood. Large commercial vacancies, like the former East West Bank space at 900 Kearny, hurt Chinatown's small businesses by detracting from the amount of pedestrian traffic in the neighborhood. The creation of a Special Use District for the parcel will allow larger tenants to occupy the long-vacant space and help drive economic activity in this corner of Chinatown.

We support the proposal to establish the 900 Kearny Reuse Special Use District.

Very Truly Yours,

Chinatown Merchants Association

cc: Jesse Feldman

Jackson Kearny LLC  
(via email)

Allan E. Low, Esq.  
Perkins Coie, LLP  
(via email)





## CHINESE CHAMBER OF COMMERCE

730 Sacramento Street, San Francisco, CA 94108

(415) 982-3000

Fax: (415) 982-4720

September 5, 2023

President Peskin  
San Francisco Board of Supervisors  
City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Re: 900 Kearny Street, San Francisco  
Property Address: 900 Kearny Street  
Block/Lot No: 0176/011

Dear President Peskin:

This letter is in support of the proposal to establish the 900 Kearny Special Use District.

The Chinese Chamber of Commerce supports economic activity and business development in Chinatown. Amending the Planning Code to allow office uses on the basement and first floors of 900 Kearny will allow a new tenant to occupy a former bank space, which has sat vacant since the COVID-19 pandemic. It is important to retain and promote all businesses in Chinatown and allowing larger tenants to occupy a long-vacant space will keep Chinatown a vibrant neighborhood.

We appreciate the project sponsor meeting with us and talking about its commitment to support the small businesses in Chinatown and North Beach and to encourage its tenants to use local businesses for its catering and other services.

Thank you for your consideration.

Chinese Chamber of Commerce

Wade Lai, President

cc: Jesse Feldman  
Jackson Kearny LLC  
(via email)  
Allan E. Low, Esq.  
Perkins Coie, LLP  
(via email)

## MEMORANDUM

DATE	July 19, 2019	PROJECT NO.	19187
TO	Jesse Feldman	PROJECT	900 Kearny Street
	Brick & Timber		
OF	590 Pacific Ave.	FROM	Christina Dikas, Senior Architectural Historian
	San Francisco, CA 94133		
CC	Elisa Skaggs, Carolyn Kiernat	VIA	Email

### REGARDING: 900 Kearny Street – Uses in Earlier Buildings on the Property

This memorandum has been requested by Jesse Feldman to understand whether the site of 900 Kearny Street has contained a previous bar or place of business that served libations. The existing building was constructed in 1986-88, so the historic research summarized in this memorandum reflects the uses of earlier buildings on the property.

Historic research was primarily conducted via Sanborn Fire Insurance maps and historic photographs. The following timeline reflects the various available Sanborn maps for the property:

- 1887:** Four buildings on the property, all three stories tall. The Olympic House (“lodgings”) occupied the upper floors, six commercial stores at ground floor including a drug store (*Figure 1*).
- 1899:** Three brick buildings on the lot, all three stories tall. The New Avenue House (“cheap lodgings”) occupied the upper two floors in the largest of the buildings, located at the corner Kearny and Jackson. **Six saloons** and a store occupied the ground floors of the three buildings. The saloons were addressed 900, 902, 904, 906, 908 Kearny, 522 and 524 Jackson (*Figure 2 and Figure 3*).
- 1905:** The same three buildings were located on the property as in 1899. **Four saloons**, a restaurant, and two stores occupied the ground floors. The saloons were addressed 900 and 902 Kearny and 522 and 524 Jackson (*Figure 4*).
- 1906:** All buildings destroyed in earthquake and fire.
- 1913:** Empty lot except for a small triangular-shaped three-story building at the corner of Columbus and Jackson with a restaurant at the ground floor. No saloon (*Figure 5*). The single building was still extant in a 1929 photo (*Figure 6*).
- 1950:** Gas and oil station (still a gas station in the 1970s but the buildings were decorated in an Asian theme and called “Chinatown Service gas”).
- 1998:** Current building constructed 1986-88.

ARCHITECTURE  
PLANNING & RESEARCH  
PRESERVATION TECHNOLOGY

As 1899 and 1905 saloons are too early to look up in San Francisco City Directories since there were no reverse listings prior to 1952. This period also cannot be reviewed in building permits since they pre-date the 1906 earthquake and fire when City records were destroyed. Thus, no specific business names have been ascertained during the course of this research.

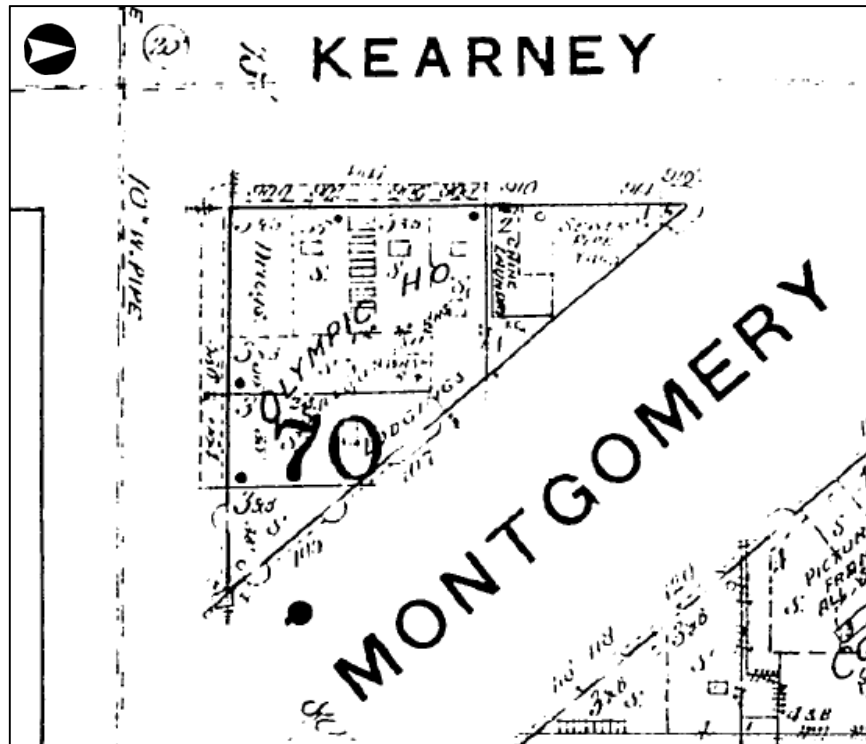


Figure 1. 1886-1893 Sanborn Fire Insurance Map, 1887. Volume 1, Sheet 9a. Note that Columbus Avenue was called Montgomery Street at the time. The label "S" indicates "store."

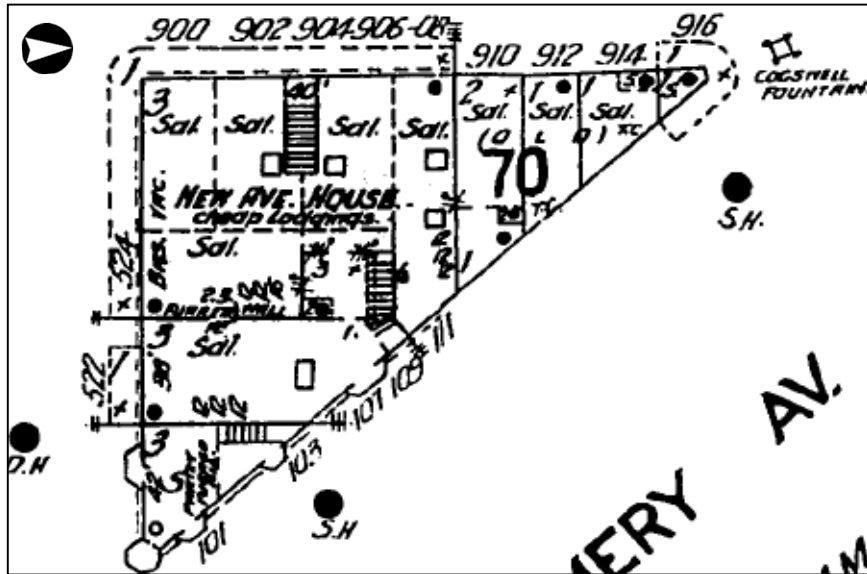


Figure 2. 1899-1900 Sanborn Fire Insurance Map, 1899. Volume 1, Sheet 29. Kearny Street at top.  
The label "Sal." Indicates "saloon."

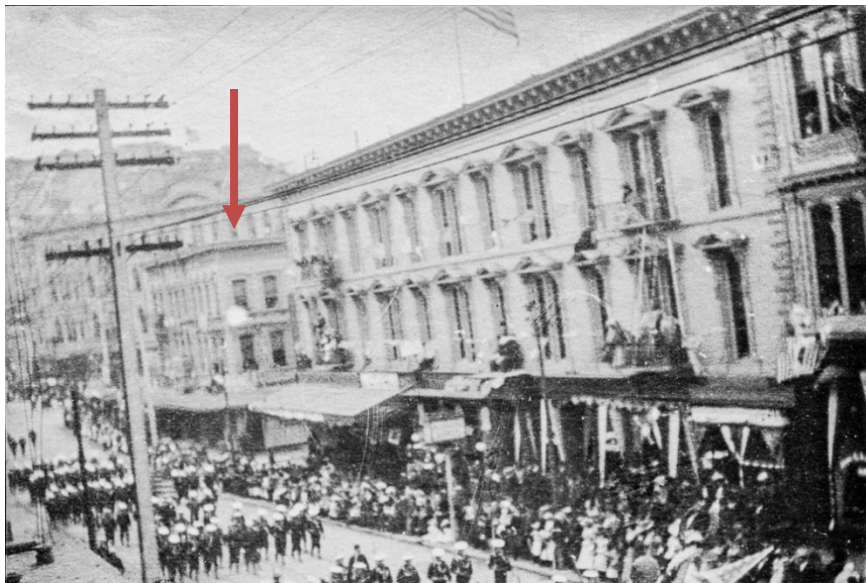


Figure 3. Kearny near Washington, looking north, 1901. The building indicated with the arrow appears to be the New Avenue House on the subject property at Kearny and Jackson, which contained saloons at the ground floor by 1905. Source: OpenSFHistory.org, wnp37.02627.

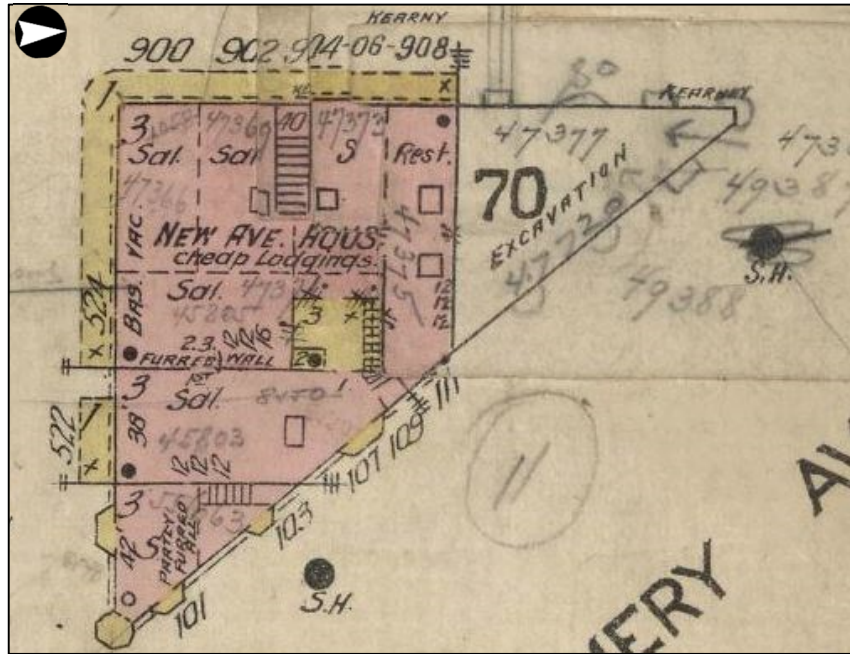


Figure 4. 1905 Sanborn Fire Insurance Map. Volume 1, Sheet 29-30. Kearny Street at top. The label “Sal.” Indicates “saloon” and the color red indicates a masonry building.

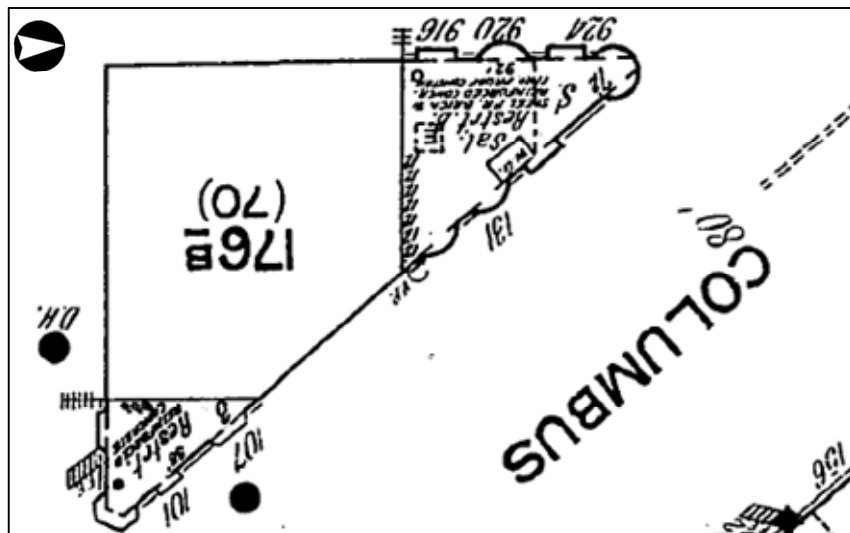


Figure 5. 1913-1915 Sanborn Fire Insurance Map, 1913. Volume 1, Sheet 33. Kearny Street at top. The three-story building at lower left was the only building on the property and contained a restaurant. No saloon indicated, unknown if the restaurant contained a bar.



Figure 6. Three-story building with ground store restaurant at the corner of Columbus and Jackson, 1929. Source: San Francisco Historical Photograph Collection, AAB-3396.













## 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):

Supervisor Peskin

Subject:

[Planning Code, Zoning Map - 900 Kearny Street Special Use District]

Long Title or text listed:

Ordinance amending the Planning Code and Zoning Map to create the 900 Kearny Street Special Use District; and 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 pursuant to Planning Code, Section 302.

Signature of Sponsoring Supervisor: [//AP//]