

1 [Planning Code, Zoning Map - Yerba Buena Center Mixed-Use Special Use District]

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3 **Ordinance amending the Planning Code and Zoning Map, by adding Section 249.71, to**  
4 **create the Yerba Buena Center Mixed-Use Special Use District (SUD) located at 706**  
5 **Mission Street, Assessor's Block No. 3706, Lot No. 093 and portions of Lot No. 277, to**  
6 **facilitate the development of the 706 Mission Street, The Mexican Museum and**  
7 **Residential Tower Project, by modifying specific Planning Code regulations related to**  
8 **permitted uses, the provision of a cultural/museum use within the SUD, floor area ratio**  
9 **limitations, dwelling unit exposure, height of rooftop equipment, bulk limitations, and**  
10 **curb cut locations; amending the Zoning Map to add the SUD and increase the height**  
11 **of property in the SUD from 400 feet to 480 feet; and making environmental findings**  
12 **and findings of consistency with the General Plan.**

13 NOTE: Additions are *single-underline italics Times New Roman*;  
14 deletions are ~~*strike-through italics Times New Roman*~~.  
15 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough normal~~.

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

17 Section 1. General Findings. The Board of Supervisors finds as follows:

18 (a) On October 24, 2012, 706 Mission Street Co. LLC (the "Applicant") filed  
19 entitlement applications with the Planning Department for the development of a mixed-use  
20 development project (the "Project") at the northwest corner of Third and Mission Streets,  
21 including an application for a Planning Code text amendment to create a new Yerba Buena  
22 Center Mixed-Use Special Use District.

23 (b) The Project is proposed to be developed on three parcels: (1) the entirety of  
24 Assessor's Block 3706, Lot 093, which is currently owned by the Applicant and which is  
25 improved with an existing 10-story, 144-foot-tall building with a 10-foot-tall mechanical

1 penthouse (the “Aronson Building”); (2) a portion of Assessor’s Block 3706, Lot 277, which is  
2 currently owned by the Successor Agency to the Redevelopment Agency of the City and  
3 County of San Francisco (“Successor Agency”), and which was chosen by the former  
4 Redevelopment Agency Commission and The Mexican Museum Board of Trustees as the  
5 future permanent home of The Mexican Museum (the “Mexican Museum Parcel”); and (3) a  
6 portion of Assessor’s Block 3706, Lot 277 and the entirety of Assessor’s Block 3706, Lot 275,  
7 which is currently owned by the Successor Agency, and which is improved with the below-  
8 grade, 442 parking space Jessie Square Garage (the “Garage Parcel”). The Aronson Building  
9 is designated as a Category I Significant Building within the New Montgomery-Mission-  
10 Second Street Conservation District.

11 (c) As part of the Project, and pursuant to transaction documents to be entered into  
12 between the Successor Agency and the Applicant, the Successor Agency would convey the  
13 Garage Parcel and the Mexican Museum Parcel to the Applicant. The Applicant would then  
14 construct a new 44-story, 480-foot-tall tower (with a 30-foot-tall elevator/mechanical  
15 penthouse), with two floors below grade. The new tower would be adjacent to and physically  
16 connected to the existing Aronson Building, which would be rehabilitated in compliance with  
17 the Secretary of the Interior’s Standards. The new tower would contain up to 39 floors of  
18 residential space. The Mexican Museum would occupy the ground through fourth floors of the  
19 tower and the second and third floors and possibly some of the ground floor of the Aronson  
20 Building. The overall project would contain up to 190 residential units, space for The Mexican  
21 Museum, a ground-floor retail/restaurant use, and associated building services. The project  
22 would also entail certain reconfigurations of the Jessie Square Garage.

23 (d) Pursuant to transaction documents to be entered into between the Successor  
24 Agency and the Applicant, the Project would result in several public benefits, including the  
25 rehabilitation of the Category I Aronson Building, the construction of a core-and-shell for future

1 occupancy by the Mexican Museum, a \$5,000,000 operating endowment for the Mexican  
2 Museum, and the creation of affordable housing opportunities through the payment of an in-  
3 lieu fee equal to 20% of the residential units, pursuant to the Inclusionary Affordable Housing  
4 Program in Planning Code Sections 415 through 415.9, as well as the payment of an  
5 additional affordable housing fee to the Successor Agency equal to 8% of the residential units.

6 (e) In order for the Project to proceed and be developed as contemplated by the  
7 Applicant, the Successor Agency, and The Mexican Museum, amendments to certain  
8 provisions of the Planning Code are required.

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10 Section 2. Environmental, Planning Code, and General Plan Findings. The Board of  
11 Supervisors finds as follows:

12 (a) On March 21, 2013, the San Francisco Planning Commission certified that the  
13 Final Environmental Impact Report ("Final EIR") for the 706 Mission Street – The Mexican  
14 Museum and Residential Tower Project ("Project") was in compliance with the California  
15 Environmental Quality Act, (California Public Resources Code section 21000, *et seq.*)  
16 ("CEQA"), the CEQA Guidelines, and Administrative Code Chapter 31 in Planning  
17 Commission Motion No. 18829. On May 7, 2013, the Board of Supervisors rejected three  
18 separate appeals of the Commission's certification of the Final EIR and by Board Motion No.  
19 M13-062 affirmed the Planning Commission's certification of the Final EIR. The Final EIR and  
20 Planning Commission Motion No. 18829 are on file with the Clerk of the Board of Supervisors  
21 in File No. 130308 and are incorporated by reference.

22 (b) On May 15, 2013, the Historic Preservation Commission, by Motion No. 0197,  
23 approved a Major Permit to Alter for the Project.

24 (c) On May 23, 2013, the Planning Commission approved several actions  
25 associated with the Project, including a Determination of Compliance with Planning Code

1 Section 309 by Motion No. 18894, as well as a General Plan Referral by Motion No. 18878.  
2 At the same hearing, the Planning Commission and Recreation and Park Commission  
3 considered jointly and each approved actions to raise the shadow limit on Union Square, a  
4 property within the jurisdiction of the Recreation and Park Department, and allocate shadow to  
5 the Project. Planning Commission Resolution No. 18876 and Motion No. 18877 and  
6 Recreation and Park Commission Resolution No. 1305-014 and Motion No. 1305-015 are on  
7 file with the Clerk of the Board of Supervisors in File No. 130570 and are incorporated by  
8 reference.

9 (d) At the hearing, both the Planning Commission and the Recreation and Park  
10 Commission adopted CEQA Findings, including a Statement of Overriding Considerations and  
11 a Mitigation Monitoring and Reporting Program (MMRP) as required by CEQA, by Planning  
12 Commission Motion No. 18875 and Recreation and Park Commission Motion No. 1305-014,  
13 which are on file with the Clerk of the Board of Supervisors in File No. 130570 and are  
14 incorporated by reference.

15 (e) Since the Planning Commission approved the Project and made CEQA findings,  
16 the Board finds that there have been no substantial changes to the Project that would require  
17 major revisions to the Final EIR or result in new or substantially more severe significant  
18 environmental impacts that were not evaluated in the Final EIR; no substantial changes in  
19 circumstances have occurred that would require major revisions to the Final EIR or result in  
20 new or substantially more severe significant environmental impacts that were not evaluated in  
21 the Final EIR; no new information has become available that was not known and could not  
22 have been known at the time the Final EIR was certified as complete and that would result in  
23 new or substantially more severe significant environmental impacts not evaluated in the Final  
24 EIR; and no mitigation measures or alternatives previously found infeasible would be feasible  
25 or mitigation measures or alternatives considerably different than those analyzed in the Final

1 EIR would substantially reduce significant environmental impacts, but the project proponent  
2 declines to adopt them.

3 (f) In accordance with the actions contemplated herein, this Board has reviewed  
4 the Final EIR and adopts and incorporates by reference as though fully set forth herein the  
5 findings adopted by the Planning Commission on May 23, 2013 in Motion 18875 and adopts  
6 the MMRP. The Board further finds that there is no need for further environmental review for  
7 the actions contemplated herein.

8 (g) On May 23, 2013, the Planning Commission conducted a duly noticed public  
9 hearing on the proposed Zoning Map amendments and, found that the public necessity,  
10 convenience, and general welfare required the approval of the proposed Zoning Map  
11 amendments, and by Resolution No. 18879 recommended them for approval. The Planning  
12 Commission found that the proposed Zoning Map amendments were, on balance, consistent  
13 with the City's General Plan, and with Planning Code Section 101.1(b). A copy of said  
14 Resolution is on file with the Clerk of the Board of Supervisors in File No. 130570 and is  
15 incorporated herein by reference.

16 (h) The Board finds that these Zoning Map amendments are on balance consistent  
17 with the General Plan and with the Priority Policies of Planning Code Section 101.1 for the  
18 reasons set forth in Planning Commission Resolution No. 18879 and the Board hereby  
19 incorporates such reasons herein by reference.

20 (i) Pursuant to Planning Code Section 302, the Board finds that the proposed  
21 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in  
22 Planning Commission Resolution No. 18879, which reasons are incorporated by reference as  
23 though fully set forth.

1 Section 3: The San Francisco Planning Code is hereby amended by adding Planning  
2 Code Section 249.71, to read as follows:

3 **SEC 249.71. YERBA BUENA CENTER MIXED-USE SPECIAL USE DISTRICT.**

4 (a) **General.** A special use district entitled the “Yerba Buena Center Mixed-Use Special  
5 Use District”, consisting of Assessor’s Block 3706, Lots 093 and 275, and portions of Assessor’s Block  
6 3706, Lot 277, is hereby established for the purposes set forth below. The boundaries of the Yerba  
7 Buena Center Mixed-Use Special Use District are designated on Sectional Map No. 1 SU of the Zoning  
8 Map.

9 (b) **Purpose.** The purpose of the special use district is to facilitate the development of a  
10 mixed-use project at the corner of Third Street and Mission Street, which will include cultural/museum,  
11 residential, and retail/restaurant. Including a museum component within the project will strengthen the  
12 district of cultural institutions that are already established in the area, including SFMOMA, the Yerba  
13 Buena Center for the Arts, the Museum of the African Diaspora, the Contemporary Jewish Museum, the  
14 Cartoon Art Museum, the Children’s Creativity Museum, and the California Historical Museum.

15 (c) **Use Controls.** The following provisions shall apply to the special use district:

16 (1) **Cultural Uses.** The special use district shall require the development of at least  
17 35,000 net square feet of cultural, museum, or similar public-serving institutional use with frontage on  
18 Jessie Square as part of the project. Pursuant to the terms of the Purchase and Sale Agreement (the  
19 “Purchase Agreement”) between the Successor Agency to the Redevelopment Agency of the City and  
20 County of San Francisco (the “Successor Agency”) and the project sponsor, (A) before any other  
21 project use may receive a certificate of occupancy, the “core-and-shell” of the cultural, museum, or  
22 similar public-serving institutional use must be constructed; and (B) the project sponsor must  
23 contribute to an operating endowment to the museum at the times specified in the Purchase Agreement.

24 (2) **Permitted Uses.** The principally permitted uses in the special use district include  
25 (A) the cultural use set forth in Section 249.71(c)(1) above; (B) a residential development with

1 approximately 4,800 square feet of retail/restaurant space; and (C) all uses that are principally  
2 permitted in the C-3-R District. The uses in the special use district shall include, at a minimum (A) the  
3 cultural use set forth in Section 249.71(c)(1) above; (B) no fewer than 145 dwelling units; and (C)  
4 ground-floor retail or cultural space in the Aronson Building. All uses which are conditionally  
5 permitted with conditional use authorization in the C-3-R District are conditionally permitted with  
6 conditional use authorization in the special use district to the extent such uses are not otherwise  
7 designated as principally permitted uses pursuant to this Section 249.71(c)(2).

8 (3) **Inclusionary Affordable Housing Program.** Development within the special use  
9 district shall be subject to the Inclusionary Affordable Housing Program, as set forth in Sections 415  
10 through 415.9, through the payment of an in-lieu fee, which is currently equal to 20% of the total  
11 number of residential units in the principal project. Additional affordable housing requirements are  
12 expected to be imposed through negotiations with the Successor Agency to the Redevelopment Agency  
13 above and beyond the requirements of Sections 415 through 415.9.

14 (4) **Floor Area Ratio.** The floor area ratio limits set forth in Sections 123 and 124  
15 for C-3-R Districts shall not apply within the special use district.

16 (5) **Dwelling Unit Exposure.** The dwelling unit exposure requirements of Section  
17 140 shall not apply within the special use district.

18 (6) **Rooftop Screening.** Section 260(b)(1)(F) shall apply within the special use  
19 district, except that the rooftop form created by any additional building volume shall not exceed 30 feet  
20 in height, measured as provided in Section 260(a), and shall not exceed a total volume, including the  
21 volume of the features being enclosed, equal to three-fourths of the horizontal area of all upper tower  
22 roof areas of the building measured before the addition of any exempt features times 30.

23 (7) **Bulk.** The bulk limits for new construction in the special use district at heights  
24 above 160 feet shall be as set forth in Table 1 below:

25 **Table 1: Bulk Limits for New Construction At Heights Above 160 Feet**

<u>Max Floor Plate</u>	<u>13,000 gsf</u>
<u>Max Plan Length</u>	<u>124 feet</u>
<u>Max Diagonal</u>	<u>157 feet</u>

**(8) Protected Street Frontages.**

(A) Section 155(r)(3) shall not apply within the special use district.

(B) For the purposes of Section 155(r)(4), the project does not have alternative frontage to Third Street and Mission Street, and therefore curb cuts accessing off-street parking or loading off Third Street and Mission Street may be permitted as an exception pursuant to Section 309 and Section 155(r)(4).

(9) Dwelling Unit Density. No conditional use authorization pursuant to Section 303(c) is required for a dwelling unit density which exceeds the density ratios specified in Section 215 for the C-3-R District.

(d) Interpretation. In the event of inconsistency or conflict between any provision of this Section 249.71 and any other provision of the Planning Code, this Section 249.71 shall prevail.

(e) Sunset Provision. This Section 249.71 shall be repealed 5 years after its initial effective date unless the Project has received a first construction document or the Board of Supervisors, on or before that date, extends or re-enacts it.

Section 4. The San Francisco Planning Code is hereby amended by amending Sectional Map HT01 of the Zoning Map of the City and County of San Francisco, as follows:

<u>Description of Property</u>	<u>Height and Bulk</u>	
	<u>Districts to be Superseded</u>	<u>Districts Hereby Approved</u>
Assessor's Block/Lot 3706/Lot 093 and portions of Lot 277	400-I	480-I



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Section 5. The San Francisco Planning Code is hereby amended by amending Sectional Map SU01 of the Zoning Map of the City and County of San Francisco, as follows:

<u>Description of Property</u>	<u>Special Use District Hereby Approved</u>
Assessor's Block/Lot 3706/Lot 093 and portions of Lot 277	Yerba Buena Center Mixed-Use Special Use District

Section 6.

(a) Effective Date. This ordinance shall become effective 30 days from the date of passage.

(b) Scope of Ordinance. In enacting this ordinance, the Board intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, tables, or any other constituent part of the Planning Code that are explicitly shown in this legislation as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the legislation.

(c) Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance would be subsequently declared invalid or unconstitutional.

1 (d) Undertaking for the General Welfare. In enacting and implementing this  
2 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not  
3 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it  
4 is liable in money damages to any person who claims that such breach proximately caused  
5 injury.

6 (e) No Conflict with State or Federal Law. Nothing in this ordinance shall be  
7 interpreted or applied so as to create any requirement, power, or duty in conflict with any  
8 federal or state law.

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

12 By: \_\_\_\_\_  
13 Marlena G. Byrne  
14 Deputy City Attorney

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