

1 [Planning Code - Downtown Support Special Use District; Fees in Lieu of On-Site Open
2 Space: Gift Acceptance]

3 **Ordinance amending the Downtown Support Special Use District to authorize a**
4 **monetary contribution to satisfy required on-site open space requirements, exclude**
5 **certain features from floor area ratio and gross floor area calculations, and dedicate the**
6 **monetary contribution for lighting and safety improvements at Victoria Manolo Draves**
7 **Park; accepting as a gift an additional monetary contribution for future improvements**
8 **to and maintenance of Victoria Manolo Draves Park or other existing under-utilized**
9 **parks in District 6, as well as for public recreation programs to occur in these parks;**
10 **affirming the Planning Department’s California Environmental Quality Act**
11 **determination, and making findings of consistency with the General Plan and the eight**
12 **priority policies of Planning Code, Section 101.1.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
16 **Board amendment additions** are in double-underlined Arial font.
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Code
19 subsections or parts of tables.

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

21 Section 1. Findings.

22 (a) The Planning Department has determined that the actions contemplated in this
23 ordinance are not defined as a project under the California Environmental Quality Act
24 (California Public Resources Code Sections 21000 et seq.) Guidelines Section 15378 and
25 15080(c)(2) because it does not result in a physical change in the environment as described

1 in the determination contained in the Planning Department files. The Board of Supervisors
2 hereby affirms this determination.

3 (b) On November 17, 2016, the Planning Commission, in Resolution No. 19779,
4 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
5 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
6 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
7 the Board of Supervisors in File No. 140877, and is incorporated herein by reference.

8
9 Section 2. The Planning Code is hereby amended by revising Section 247, to read as
10 follows:

11 **SEC. 247. DOWNTOWN SUPPORT OPEN SPACE DEMONSTRATION SPECIAL USE**
12 **DISTRICT.**

13 (a) **Purpose.** In order to provide that a certain area within the C-3-S District be able
14 to be developed for hotel use with an increased basic floor area ratio of 7.5 to 1, there shall be
15 a "Downtown Support Special Use District" (also referred to as the "C-3-S (SU) District") as
16 designated on Sectional Map SU01 of the Zoning Map. ~~Development at densities above the basic~~
17 ~~floor area ratio of 7.5:1 in this special use district will not be permitted.~~

18 (b) **Requirements.**

19 (1) **Floor Area Ratio.** The basic and maximum floor area ratio of the C-3-S
20 (SU) District, after purchase of all market-rate, available TDR within the C-3-S District, shall
21 be 7.5:1. Development at densities above the basic floor area ratio of 7.5:1 in this special use district
22 will not be permitted. Roof eaves, cornices, or belt courses that project no more than two feet from the
23 face of the building wall shall be excluded from the FAR calculation.

24 Where there are fewer square feet of TDR within the C-3-S District available than the
25 Planning Commission determines is required for a project, the Planning Commission may, as

1 part of a Section 309 review, authorize a project sponsor to make a monetary contribution
2 towards the preservation of a Landmark building within the C-3 area in an amount to be
3 determined by the Commission. For purposes of this Section 247, the C-3 area shall include
4 any C-3 District and any P District adjacent thereto. All other provisions of this Code
5 applicable to the C-3-S District shall apply in the C-3-S (SU) District.

6 (2) **Gross Floor Area Calculation.** Notwithstanding the definition of Gross Floor
7 Area in Section 102 of this Code, balconies, porches, roof decks, terraces, courts, and similar features
8 shall be excluded from the calculation of Gross Floor Area if they are fully open to the sky, even if
9 covered by retractable canopies and associated support structures. However, the square footage of
10 these excluded features shall be used to calculate any development impact fees that typically would be
11 due in relation to an increased FAR.

12 (3) **Privately-Owned Public Open Space Requirements; Payment of In-lieu Fee.**
13 The Board of Supervisors hereby authorizes the payment of a fee of ~~\$2,500,000~~ 2,600,000 in lieu of
14 the project sponsor's provision of the 4th and 6th floor terraces at 888 Howard Street as required on-
15 site open space for the project constructed pursuant to this Section 247. The amount of the in-lieu fee
16 represents a construction cost of \$290.70 per square foot of Gross Floor Area multiplied by the 8,600
17 square foot of open space required by Section 138 of this Code, and an additional \$100,000
18 representing the maintenance cost that typically accompanies any POPOS that is the
19 responsibility of the private owner.

20 While the Board holds that maintaining the public nature of POPOS spaces are the
21 responsibility of the property owner, in authorizing the payment of an in-lieu fee in this case the Board
22 finds and determines that:

23 (A) the Planning Commission's original approval of the project noted the
24 poor quality of the open space;

1 (B) alternative, suitable open space sites cannot be acquired within the
2 neighborhood of the project;

3 (C) improvements to the quality of the existing open space are neither
4 feasible nor appropriate; and

5 (D) while the City should always strive to maintain requirements associated
6 with development approvals, in this case the alternative in-lieu payment provides greater public benefit
7 than the original open space requirement.

8 (c) **Authorized Use of the In-Lieu Fee.** The in-lieu fee shall be dedicated to the Recreation
9 and Parks Department and used to improve the lighting and safety features of Victoria Manolo Draves
10 Park, including any increased funding required to staff evening hours. The improved lighting shall be
11 provided within two years of the Recreation and Parks Department receiving payment of the funds.

12
13 Section 3. Gift Acceptance of Additional Funds to Support Victoria Manolo Draves Park
14 or Other Existing Under-Utilized Parks in District 6.

15 (a) The project sponsor has offered to the City and County of San Francisco as a
16 gift an additional \$300,000 to be used for future improvements to and maintenance of Victoria
17 Manolo Draves Park or other under-utilized parks in existence in District 6 as of the effective
18 date of this ordinance, as well as for public recreation programs to occur in these parks. A
19 copy of the gift offer is on file with the Clerk of the Board of Supervisors in File No. 140877.
20 The Board of Supervisors graciously accepts, on behalf of the City and County of San
21 Francisco, the gift offer from the project sponsor.

22 (b) The Board of Supervisors directs that these funds be transferred to the Friends
23 of Victoria Manolo Draves Park through its fiscal sponsor, San Francisco Parks Alliance, to be
24 used exclusively for the purposes set forth in subsection (a) above. The following steps shall
25 occur prior to the transfer of all or any portion of these funds to the San Francisco Parks

1 Alliance as fiscal sponsor for Friends of Victoria Manolo Draves Park: (1) the Friends of
2 Victoria Manolo Draves Park and the San Francisco Parks Alliance shall submit a proposal
3 for use of the funds to the Recreation and Parks Department, (2) the Recreation and Parks
4 Department shall have determined that the proposed projects or programs comply with the
5 purposes of the funds set forth in subsection (a) above, and (3) transfer of funds has been
6 approved by the Recreation and Parks Commission.

7
8 Section 4. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor’s veto of the ordinance.

12
13 Section 5 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the “Note” that appears under
18 the official title of the ordinance.

19
20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

22 By: _____
23 JUDITH A. BOYAJIAN
24 Deputy City Attorney

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