



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT APPROVAL

HEARING DATE: September 17, 2020

Record No.: 2011.1356PCA-02
Project Name: Central SoMa Planning Code Clean-Up
Initiated by: Planning Commission
Reviewed by: Joshua Switzky, Land Use & Community Planning Program Manager
Citywide Division

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Recommendation: Recommend Approval to the Board of Supervisors

Planning Code Amendment

The proposed Ordinance would amend the Planning Code by correcting, clarifying and updating Administrative and Planning Code amendments approved in Ordinance No. 296-18, which gave effect to the Central South of Market (“SoMa”) Area Plan, and is necessary to implement the adopted policies of the Central SoMa Plan.

The Way It is Now

The Planning Code contains grammatical and syntactical errors, unintentional cross-references and accidental additions and deletions associated with the Central SoMa Planning Code amendments approved in 2018. Additionally, there are currently Planning Code provisions approved under original Central SoMa Ordinance regarding off-site open space, publicly accessible privately owned open spaces (POPOS), the Central SoMa PDR requirement, the Central SoMa lot coverage requirement, aspects of the Central SoMa Infrastructure Fee and the Central SoMa Community Facilities Fee, and the and height and bulk setback and sky plane requirements that are inconsistent with the intentions of the adopted policies regarding those topics.

The Way It Would Be

The proposed Ordinance seeks to correct these errors and improve the overall quality and readability of the Code and to more accurately implement the intent of the adopted policies in the Central SoMa Plan.

Amendments that could be considered substantive but that are being made to clarify, correct omissions, or reflect the actual intent of the adopted Central SoMa legislation do the following: ; (1) require an operations and maintenance strategy for all required Privately Owned Public Open Spaces (POPOS); (2) clarify that the Central SoMa PDR requirement applies to projects that increase a building's square footage by 20% and result in 50,000 gsf of office space along with new construction projects that result in 50,000 gsf of office space; (3) clarify lot coverage requirement for residential uses in the Central SoMa SUD; (4) clarify which sides of narrow streets in Central SoMa are subject to solar plane setback and bulk reduction sky plane requirements; (5) clarify that funds collected through the BMR in-lieu fee from Central SoMa projects are required to be spent in the greater SoMa area; (6) clarify that exceptions and modifications for usable open space can only be for non-square footage related exceptions; (7) clarify that funds collected through the Central SoMa Community Facilities fee can be spent in the greater SoMa area, and not limited to the Central SoMa SUD; (8) clarify that the Central SoMa Infrastructure Fee applies to both Tiers B and C for non-residential projects not subject to an office allocation of 50,000 gsf or greater; and (9) clarify that funds from the SoMa Infrastructure fee can be spent on recreation and open space project as well as transit projects.

The two substantive changes include the following: (1) enabling a project sponsor to meet part of its usable open space requirement off-site at a greater distance from the principal project, particularly by enabling projects to build open space under and around the I-80 freeway within the Central SoMa SUD and (2) provide an additional exception for one Key Site (northeast corner of 5th/Brannan) by allowing the Commission to consider provision of certain retail in-lieu of a portion of the PDR requirement.

Background

On May 10, 2018, the Planning Commission adopted Resolution No. 20185, recommending to the Board of Supervisors (Board) to approve a series of Planning Code and other Code Amendments related to the Central SoMa Plan. On December 4, 2018, the Board finally approved the amendments; the Amendments went into effect on January 11, 2019. Subsequent to the approval, Planning staff has noticed several inadvertent errors and instances where the wording of or placement of the new code provisions do not accurately reflect the intent of the related policy. This ordinance is intended to address these issues.

On July 30, 2020, the Planning Commission adopted Resolution No. 20771, initiating these amendments. The original initiating amendments did not include the following changes that are now incorporated into the revised draft ordinance; these new amendments would do the following: (1) clarify when the renewable electricity commitment needs to be made; (2) clarifying that the Community Facilities Fee fund can be spent in the greater SoMa area; (3) clarify that the Infrastructure Fee applies to non-residential non-large office cap projects (i.e. less than 50,000 gsf of office) in Tier B as well as Tier C; (4) clarify that funds from the Infrastructure Fee can be spent on recreation and open space projects; and (4) adds the provision regarding potential exceptions for a project at Block 3777, Lots 045, 050, 051 and 052.

Issues and Considerations

Substantive Changes

Many of the proposed changes in this ordinance are not substantive. However, this ordinance does contain changes that could be considered substantive, but for the reasons identified below are included in this ordinance as amendments that would correct conflicting or missing information. The following is a list of

amendments (1-9) the Department believes to substantive but clarifies the intent as expressed in other Central SoMa approval documents, along with two amendments (10, 11) that are new substantive amendments:

1. **Requiring an Operations Strategy for Privately Operated Publicly Accessible Open Space (POPOS).** The adopted Central SoMa Implementation Document (see Implementation Matrix 5.5.1.3) calls for the review and approval of an operations strategy for each POPOS to memorialize the means by which such open space will be maintained and operated on an ongoing basis but was inadvertently not included in the Original Legislation. Therefore, staff is recommending that the text amendment include the requirement that an Operation Strategy be approved by the Director of Planning prior to the approval of a site or building permit of a project with such POPOS requirement. (Planning Code Section 138(f))
2. **Clarifying that projects that add 20% gross floor area to an existing building are subject to the PDR requirement.** The Original Legislation included a PDR requirement for certain projects within the Central SoMa SUD. The Original Legislation subjected only new construction projects that created 50,000 gross floor area or more to this requirement. However, Planning's intent was to include all projects that add at least 50,000 gross square feet of office space to a site, inclusive of major additions to existing buildings. Staff is recommending that this requirement be expanded to also include projects that add at least 20% to an existing building to assure large-scale projects that are technically not considered "new construction" be subject to the requirement. (Planning Code Section 249.78(c)(5)(B))
3. **Clarifying the Lot Coverage Limitation in Central SoMa is 80 percent for all Residential Levels.** The subject Code amendment would clarify that all floor levels with residential space (including accessory residential spaces such as common rooms) are limited to 80% lot coverage, except for floors whose only "residential" space is common lobbies and circulation. (Planning Code Section 249.78(d)(6))
4. **Clarifying Height Setback and Bulk Reduction Sky Plane Requirements for Projects on Narrow Streets in Central SoMa.** The Original Central SoMa Legislation included new provisions that expanded on solar plane setback requirements on the southern side of narrow streets, originally established as part of the Market Octavia Plan in 2008. The Central SoMa Legislation also introduced a new type of bulk reduction, "sky plane", where upper story bulk reduction is determined by the perceived visibility of a building's upper story bulk by pedestrians on the street. This Clean-Up legislation clarifies and corrects which sides of the street these new requirements apply to and reorganizes the provisions so that all sky plane requirements are in the same section of the Code. Further, the proposed revisions clarify that buildings that are taller than would otherwise be allowed in a given height district are to follow the sky plane bulk reduction requirements of the height district that is most aligned with the height of the building. (Planning Code Sections 261.1(b)(1) and (d)(1), (2) and (3) and 270(h))
5. **Clarifying that funds collected through the BMR in-lieu fee in Central SoMa are to be spent in the greater SoMa area.** The Central SoMa Implementing Document assumed that fees collected through the BMR in-lieu fee would be spent in the greater SoMa Area. This corrects the omission from the Original Legislation. (Planning Code Section 406(b)(1))
6. **Clarifying that Only Non-Quantitative Exceptions to Open Space Requirements Can be Granted through Design Exceptions.** The Original Legislation included provisions that allowed exceptions to the usable open space requirement to be approved through a modification or variance. This Clean-up Legislation

clarifies that the payment of open space in-lieu fee is only required when an exception or variance is granted to reduce the amount of open space provided, but not in cases where an exception or variance is only related to the design standards for the open space. (Planning Code Sections 426 and 427)

7. **Broadening the Area in Which Funds Collected from the Central SoMa Community Facilities Fee can be Spent.** Currently, Planning Code Section 432(b)(1) limits the area in which Central SoMa Community Infrastructure fee can be spent to the Central SoMa SUD. Staff believes that this geography is too limited to practically implement the purpose of the adopted Fee, given that opportunities to fund such facilities that serve the residents of Central SoMa may fall nearby but outside the boundaries of the Plan area. The amendment proposed would broaden this geography to include all of what is commonly known as SoMa (Market Street, Embarcadero, Townsend Street 13th Street, South Van Ness Avenue). (Planning Code Section 432(b)(1))
8. **Expanding the Applicability of the Central SoMa Infrastructure Fee to an Additional Central SoMa Fee Tiers.** The Central SoMa Plan introduced several new funding sources to fund community benefits. These included the Central SoMa Infrastructure Fee, the Central SoMa Community Facilities fee, and a new Community Facilities District (CFD). The Central SoMa area was divided into fee tiers (A, B, and C) based on the amount of additional development capacity the Plan created, and therefore the capacity for a development project to contribute higher fees. The Central SoMa Community Benefits Program, adopted by the Board of Supervisors, indicated that non-residential projects that are not subject to a “large cap” office allocation (i.e. adding 50,000 gsf of office space or more) should pay the SoMa Infrastructure Fee if they were in either Tiers B or C. The Original Central SoMa legislation inadvertently only included Tier C; this clean-up legislation would add Tier B to be consistent with the adopted Plan documents and Board of Supervisors record of intent. (Planning Code Section 433.2(b)(4))
9. **Expanding the Types of Infrastructure Projects that can be Funded through the Central SoMa Infrastructure Fee.** The adopted Central SoMa Community Benefits Document indicated that both transit and parks/open space projects could be funded through revenue from the Central SoMa Infrastructure Fee. The Original Central SoMa Legislation mistakenly only referenced transit as being an eligible infrastructure type. The Clean-Up legislation would correct this by adding back recreation and open space projects that could be funded through this revenue source. (Planning Code Section 433.4(b)(1))
10. **Allowing the portion of required usable open space that can be provided off-site to be provided at a greater distance.** Planning Code Section 135(h)(6)(i)(1) establishes that required usable open space that can be provided off-site must be within 800 feet of the principal project. One of the open space policy goals of the Central SoMa Plan is to improve underutilized parcels under and immediately adjacent to Interstate 80 as open space resources. Therefore, Planning staff is recommending that this distance standard be amended to allow such open space to be within ½-mile of the principal project or be under or adjacent to I-80 if it is within the boundaries of the Central SoMa SUD; this provides more flexibility in providing off-site usable open space generally, and encourages the creation of desirable open space at these targeted parcels. (Planning Code Section 135(h)(6)(i)(1))

11. Enabling an additional exception through the Large Project Authorization for the Key Site at the Northeast corner of 5th and Brannan, consisting of Block 3777, Lots 045, 050, 051 and 052 to provide more certain types of retail. The Original Legislation included new PDR requirements for certain projects within the Central SoMa SUD. At the same time, the Central SoMa Area Plan and the Central SoMa Implementing Document also include policies that strongly encourage neighborhood serving retail to meet the needs of the expanding residential population. The Planning Commission approved a project for the Subject site in August 2019. The approved project includes approximately 47,200 gsf of required PDR consistent with the requirements, along with 11,000 gsf of retail. Subsequent to the adoption of the Original Legislation and initial approval of a project at the subject site both the Planning Department and the Project Sponsor heard a strong desire from community members to allow for larger neighborhood serving uses as part of the Project, specifically retail sales and service establishments, such as grocery or hardware stores, that would provide for everyday needs at affordable prices to a diverse range of residents. This amendment would enable up to 15,000 gsf of the PDR requirement to be forgone in place of certain types of retail to meet this goal, subject to Commission review and approval pursuant to the Section 329 Key Site exception process. (Planning Code Section 329(e)(3)(B)(iv)).

Environmental Review

The Planning Commission certified the Final Environmental Impact Report for the Central Soma Plan (“Final EIR”) and adopted CEQA Findings for the Central Soma Plan on May 10, 2018 by Motions 20182 and 20183 respectively.

On September 10, 2020, the Environmental Planning Division of the Planning Department issued a Note-to-File which stated the following: The changes made to the project since the PEIR was finalized would not require revisions to the PEIR due to the involvement of new significant environmental effects or increase in the severity of previously identified significant impacts. There are also no substantial changes in project circumstances that would require revisions to the PEIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the PEIR. Thus, for the reasons outlined above, this note to file provides sufficient documentation that the revised project does not warrant additional environmental review.

Basis for Recommendation

This Ordinance is intended to correct identified errors, omissions, and imprecision in the Code amendments adopted to implement the Central SoMa Plan. Although these are considered minor errors, they cannot be corrected without a legislative change. Adopting this Ordinance will make the code more consistent with adopted policy, accurate and easier to use. Other amendments are to clarify Code provisions to accurately reflect the original intent of the Central SoMa Plan.

Attachments:

Draft Resolution
Draft Ordinance