



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: APRIL 12, 2012

Project Name: **Amendments to the San Francisco Planning Code to Create the 9th Street Power Retail Special Use District**

Case Number: 2012.0167T [Board File No. 12-0083]

Initiated by: Supervisor Kim/ Introduced January 31, 2012

Staff Contact: Aaron Starr, Legislative Affairs
Aaron.starr@sfgov.org, 415-558-6362

Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Recommend Approval with modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the San Francisco Planning Code by adding Section 249.66 (to be changed to Section 249.67 or the next available number under Section 249) to establish the 9th Street Power Retail Special Use District for property located at 555-9th Street (Assessor's Block No. 3781, Lot No. 003); amending the San Francisco Zoning Map Sheet SU08 to show the boundaries of the 9th Street Power Retail Special Use District; and making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The Way It Is Now:

555- 9th Street is zoned UMU, Urban Mixed Use District, which requires Conditional Use Authorization for formula retail establishments. The property is also located within the "Showplace Square Special Sign District," which prohibits new general advertising signs. Under the UMU zoning, the property has no minimum parking requirements, but does have a maximum parking requirement, as outlined in Section 151.1.

The subject property is also subject to various use size limits outlined in the Planning Code. Section 843.45 limits retail uses in the UMU zoning district to a maximum floor area of 25,000 gross square feet. Above 25,000 gross square feet, three gross square feet of other uses permitted in that District are required for every one gross square foot of retail. Section 121.6 requires a CU for anything over 50,000 sq. ft. and prohibits any single use larger than 120,000 sq. ft., except in the C-3.

The Way It Would Be:

The proposed ordinance would establish a new SUD, called the "9th Street Power Retail Special Use District," which would only include the subject parcel. The new Ordinance would:

1. principally permit formula retail in the proposed SUD,
2. remove the maximum parking limits in the new SUD,
3. exempt the SUD from the "Showplace Square Special Sign District," and
4. exempt the SUD from the use size limits outlined above.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance *with modifications* to include:

1. Remove Section 249.66(b)(4) from the Ordinance, which exempts the proposed SUD from the Showplace Square Special Sign District and the sign controls in Article 6 of the Planning Code.
2. Amend Section 249.66(b)(3) so that the proposed SUD is still subject to the maximum parking controls in Section 151.1, but allow the existing 330 parking spaces to remain regardless of a future change of use.
3. Add a 90,000 gross square foot trigger, which would require a CU for any single use that is above 90,000 sq. ft.

BASIS FOR RECOMMENDATION

Recommendation for Support of the Ordinance: The Department supports the establishment of the 9th Street Power Retail Special Use District. Except for a local taqueria, the subject property contains only formula retail (Bed Bath and Beyond, Chase Bank, Pier 1 Imports, Peet's Coffee, Trader Joes and Wells Fargo¹). The Formula Retail controls were primarily adopted to protect the aesthetic character of the City's Neighborhood Commercial Districts (NCDs) and South of Market Mixed Use Districts (MUDs). This shopping center is internally focused; presents inactive facades to the broader neighborhood; and generally has none of the unique qualities of districts which restrict formula retail uses. For these reasons, enforcing formula retail controls on this particular property does not make sense.

Recommendation for Modifications: The Department does not find any justification for exempting this property from the sign controls in Section 608.12. According to the property owner's representative, there was a misunderstanding that the prohibition on general advertising signs was also prohibition on business signs. However, there is nothing in the Planning Code that would prevent new businesses from having a sign identifying their business on the exterior of the building as long as it complies with the size limitations in Article 6. Therefore, the Department recommends removing Section 249.66(b)(4) from the Ordinance.

The Department also does not find that there is any justification for exempting the subject property from the zoning district's maximum parking controls. The Department supports language that would allow the subject property to maintain the existing number of spaces regardless of a change of use; however, we recommend removing the provision that exempts the property from Sections 151.1 and 843.10. Currently the property has approximately 330 parking spaces; a rough calculation of the total floor area puts the existing limit at over 500 spaces.

When the Small Business Commission reviewed the proposed ordinance, they expressed concern that the ordinance removes use size limits on the property, and the Department agrees with this concern. The

¹ Please see Exhibit C for a list of existing businesses and their total square footage.

Small Business Commission's recommendation that any change of use that is over 75,000 gross sq. ft. (the current largest tenant, Bed Bath and Beyond, is just under 75,000) would require Conditional Use Authorization. However, the Department would like this limit to be 90,000 sq. ft. Currently, the Planning Code has a 90,000 sq. ft. use size limit in the C-3 Districts. The Department would like to use the 90,000 sq. ft. number for consistency in the Planning Code.

ENVIRONMENTAL REVIEW

The proposal to amend the Planning Code by adding the 9th Street Power Retail Special Use District for property located at 555-9th Street (Assessor's Block No. 3781, Lot No. 003) and amending the San Francisco Zoning Map Sheet SU08 to show the boundaries of the 9th Street Power Retail Special Use District would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any comments regarding the proposed ordinance.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 12-0083
- Exhibit C: List of existing businesses and gross square footage.
- Exhibit D: Map of proposed SUD



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

HEARING DATE: APRIL 12, 2012

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Project Name: **Amendments to the San Francisco Planning Code to Create the 9th Street Power Retail Special Use District**

Case Number: 2012.0167T [Board File No. 12-0083]

Initiated by: Supervisor Kim/ Introduced January 31, 2012

Staff Contact: Aaron Starr, Legislative Affairs
Aaron.starr@sfgov.org, 415-558-6362

Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395

Recommendation: **Recommend Approval with modifications**

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE SAN FRANCISCO PLANNING CODE BY ADDING SECTION 249.66 TO ESTABLISH THE 9TH STREET POWER RETAIL SPECIAL USE DISTRICT FOR PROPERTY LOCATED AT 555-9TH STREET (ASSESSOR'S BLOCK NO. 3781, LOT NO. 003); 2) AMENDING THE SAN FRANCISCO ZONING MAP SHEET SU08 TO SHOW THE BOUNDARIES OF THE 9TH STREET POWER RETAIL SPECIAL USE DISTRICT; AND 3) MAKING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

PREAMBLE

Whereas, on January 31, 2012, Supervisor Kim introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 12-0083 which would amend the San Francisco Planning Code by adding Section 249.66 (to be changed to Section 249.67 or the next available number under Section 249) to establish the 9th Street Power Retail Special Use District for property located at 555-9th Street (Assessor's Block No. 3781, Lot No. 003); amending the San Francisco Zoning Map Sheet SU08 to show the boundaries of the 9th Street Power Retail Special Use District; and making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1, and

Whereas, on April 12, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the 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 the applicant, Department staff, and other interested parties; and

Whereas, the all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

Whereas, the Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed Ordinance with modifications* and adopts the attached Draft Resolution to that effect.

Specifically, the Commission recommends the following modifications:

1. Remove Section 249.66(b)(4) from the Ordinance, which exempts the proposed SUD from the Showplace Square Special Sign District and the sign controls in Article 6 of the Planning Code.
2. Amend Section 249.66(b)(3) so that the subject property is still subject to the maximum parking controls in Section 151.1, but allow the existing 330 parking spaces to remain regardless of a future change of use.
3. Add a 90,000 gross square foot trigger, which would require a CU for any single use that is above 90,000 sq. ft.

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:

1. Except for a local taqueria, the subject property contains only Formula Retail (Bed Bath and Beyond, Chase Bank, Pier 1 Imports, Peet's Coffee, Trader Joes and Wells Fargo). The Formula Retail controls were primarily adopted to protect the aesthetic character of the City's Neighborhood Commercial Districts (NCDs) and South of Market Mixed Use Districts (MUDs). This shopping center is internally focused; presents inactive facades to the broader neighborhood; and generally has none of the unique qualities of districts which restrict formula retail uses.
2. The Commission does not find that there is a need or justification to exempt the subject SUD from the sign controls in Section 608.12. New businesses will still be permitted to install a sign identifying their business on the exterior of the building as long as it complies with the limitations in Article 6.
3. The Commission does not find that there is a need or justification to exempt the subject SUD from the zoning district's maximum parking controls. The subject site currently has 330 parking spaces and is permitted to have in excess of 500 parking spaces under the current parking maximums outlined in the Planning Code.

4. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

I. COMMERCE & INDUSTRY ELEMENT

THE COMMERCE AND INDUSTRY ELEMENT OF THE GENERAL PLAN SETS FORTH OBJECTIVES AND POLICIES THAT ADDRESS THE BROAD RANGE OF ECONOMIC ACTIVITIES, FACILITIES, AND SUPPORT SYSTEMS THAT CONSTITUTE SAN FRANCISCO'S EMPLOYMENT AND SERVICE BASE.

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 3

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED

Policy 3.1

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The proposed Ordinance will create an SUD that will be exempt from the Formula Retail controls outlined in Section 703.3 of the Planning Code at a location that is already occupied by large formal retail establishments. Doing this will help attract new businesses to vacant retail space by reducing process and startup costs, as well as allow existing businesses to expand in the proposed SUD with less process and cost. Further, these businesses tend to provide jobs for semi-skilled workers.

5. The proposed replacement project is consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

- A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

The proposed Ordinance will create an SUD that will be exempt from the Formula Retail controls outlined in Section 703.3 of the Planning Code at a location that is already occupied by large formal retail establishments. The proposed SUD is located on a piece of property that is not next to or within a neighborhood commercial district and will not have any negative impact on the existing neighborhood-serving retail uses.

- B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

The proposed legislation concerns a lot developed with large formula retail establishments and seeks to preserve the status quo. It will not have a negative impact on existing or neighborhood character.

- C) The City's supply of affordable housing will be preserved and enhanced:

The proposed Ordinance will have no adverse effect on the City's supply of affordable housing.

- D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

- E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.

- F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. Any new construction or alteration associated with a use would be executed in compliance with all applicable construction and safety measures.

- G) That landmark and historic buildings will be preserved:

Landmarks and historic buildings would be unaffected by the proposed amendments.

- H) Parks and open space and their access to sunlight and vistas will be protected from development:

The City's parks and open space and their access to sunlight and vistas would be unaffected by the proposed amendments. It is not anticipated that permits would be such that sunlight access, to public or private property, would be adversely impacted.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on April 12, 2012.

Draft Resolution No.
Hearing Date: April 12, 2012

CASE NO. 2012.0167T
9th Street Power Retail Districts

Linda Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: April 12, 2012

BOARD of SUPERVISORS



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

February 3, 2012

Planning Commission
Attn: Linda Avery
1660 Mission Street, 5th Floor
San Francisco, CA 94103

Dear Commissioners:

On January 31, 2012, Supervisor Kim introduced the following proposed legislation:

File No. 120083

Ordinance: 1) amending the San Francisco Planning Code by adding Section 249.66 to establish the 9th Street Power Retail Special Use District for property located at 555-9th Street (Assessor's Block No. 3781, Lot No. 003); 2) amending the San Francisco Zoning Map Sheet SU08 to show the boundaries of the 9th Street Power Retail Special Use District; and 3) making environmental findings, Planning Code Section 302 findings, and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.

The proposed ordinance is being transmitted pursuant to Planning Code Section 302(b) for public hearing and recommendation. The ordinance is pending before the Land Use & Economic Development Committee and will be scheduled for hearing upon receipt of your response.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script that reads "Alisa Miller".

By: Alisa Miller, Committee Clerk
Land Use & Economic Development Committee

Attachment

- c: John Rahaim, Director of Planning
- Scott Sanchez, Zoning Administrator
- Bill Wycko, Chief, Major Environmental Analysis
- AnMarie Rodgers, Legislative Affairs
- Nannie Turrell, Major Environmental Analysis
- Brett Bollinger, Major Environmental Analysis

1 [Planning Code and Zoning Map - 9th Street Power Retail Special Use District - 555-9th
2 Street]

3 **Ordinance: 1) amending the San Francisco Planning Code by adding Section 249.66 to**
4 **establish the 9th Street Power Retail Special Use District for property located at 555-9th**
5 **Street (Assessor's Block No. 3781, Lot No. 003); 2) amending the San Francisco Zoning**
6 **Map Sheet SU08 to show the boundaries of the 9th Street Power Retail Special Use**
7 **District; and 3) making environmental findings, Planning Code Section 302 findings,**
8 **and findings of consistency with the General Plan and the Priority Policies of Planning**
9 **Code Section 101.1.**

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

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

15 Section 1. Findings. The Board of Supervisors of the City and County of San Francisco
16 hereby finds and determines as follows:

17 (a) This legislation will affect property located at 555 - 9th Street (Block 3781, Lot 003).

18 (b) In a categorical exemption adopted on _____, 2012, the
19 Planning Department has determined that the actions contemplated in this ordinance are
20 categorically exempt under the California Environmental Quality Act (California Public
21 Resources Code sections 21000 et seq.). The certified categorical exemption is on file with
22 the Clerk of the Board in File No. _____, and is incorporated herein by reference.

23 (c) On _____, 2012, the Planning Commission in Resolution No.
24 _____ approved and recommended for adoption by the Board the Ninth Street Power
25 Retail Special Use District and the Zoning Map amendments showing the boundaries of the

1 Ninth Street Power Retail Special Use District. A copy of Planning Commission Resolution
2 No. _____ is on file with the Clerk of the Board of Supervisors in File No. _____.

3 (d) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this
4 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in
5 Planning Commission Resolution No. _____, and the Board incorporates those
6 findings herein by reference.

7 (e) The provisions of this ordinance are consistent with the General Plan and with the
8 Priority Policies of Planning Code Section 101.1 for the reasons set forth in Planning
9 Commission Resolution No. _____, and the Board incorporates those findings herein
10 by reference.

11
12 Section 2. The San Francisco Planning Code is hereby amended by adding Section
13 249.66, to read as follows:

14 **SEC. 249.66. NINTH STREET POWER RETAIL SPECIAL USE DISTRICT.**

15 (a) **General.** A Special Use District entitled the Ninth Street Power Retail Special Use District,
16 the boundaries of which are shown on Sheet SU08 of the Zoning Map, is hereby established for the
17 property located at 555 9th Street (Block 3781, Lot 003) for the purposes set forth below.

18 (b) **Purpose.** The property within the Ninth Street Power Retail Special Use District is an
19 existing retail center with attendant parking for customers and loading bays for deliveries. Except for
20 small retailers located on the ground floor, the tenants of this retail center are large formula retail
21 tenants. Since its completion, the overwhelming number of tenants in this retail center have been large
22 formula retail tenants. The Ninth Street Power Retail Special Use District is established to allow the
23 continued use and operation of the retail center for large formula retail tenants.

24 (b) **Controls.** Except as otherwise provided below, all provisions of the Planning Code
25 applicable to the property within the Ninth Street Power Retail Special Use District shall apply:

1 (1) The use size limitations and ratio requirements set forth in Sections 121.6, 803.6(b),
2 803.9(i), 843.45, 843.46, 843.51, and elsewhere in this Code, shall not apply. Large formula retail uses
3 are principally permitted and the replacement of one such use or tenant by another such use or tenant
4 within this retail center, regardless of its size, is principally permitted. In addition to formula retail
5 uses, all principally permitted and conditionally permitted uses in the UMU zoning district are allowed.

6 (2) The Formula Retail requirements of Sections 803.6 and 843.46 of this Code shall not apply.
7 Formula Retail uses are principally permitted.

8 (3) The off-street parking requirements of Sections 843.10 and 151.1 of this Code shall not
9 apply, provided that there shall be not less than 330 off-street parking stalls for the retail center.

10 (4) Notwithstanding Section 608.12 of this Code, new tenants of the retail center shall be
11 permitted to replace the signage and logos of the previous tenant with signage and logos of like size on
12 the exterior of the retail center.

13
14 Section 3. Pursuant to Sections 106 and 302(c) of the Planning Code, the following
15 amendment to Sheet SU08 of the Zoning Map of the City and County of San Francisco, duly
16 approved and recommended to the Board of Supervisors by the Planning Commission, is
17 hereby adopted:

<u>Description of Property</u>	<u>Special Use District Hereby Approved</u>
Assessor's Block 3781, Lot 003	Ninth Street Power Retail

18
19
20
21
22 Section 4. Effective Date. This ordinance shall become effective 30 days from the
23 date of passage.
24
25

1 Section 5. This section is uncodified. In enacting this Ordinance, the Board intends to
2 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
3 punctuation, charts, diagrams, or any other constituent part of the Planning Code that are
4 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
5 Board amendment deletions in accordance with the "Note" that appears under the official title
6 of the legislation.

7

8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 JUDITH A. BOYAJIAN
12 Deputy City Attorney

13

14

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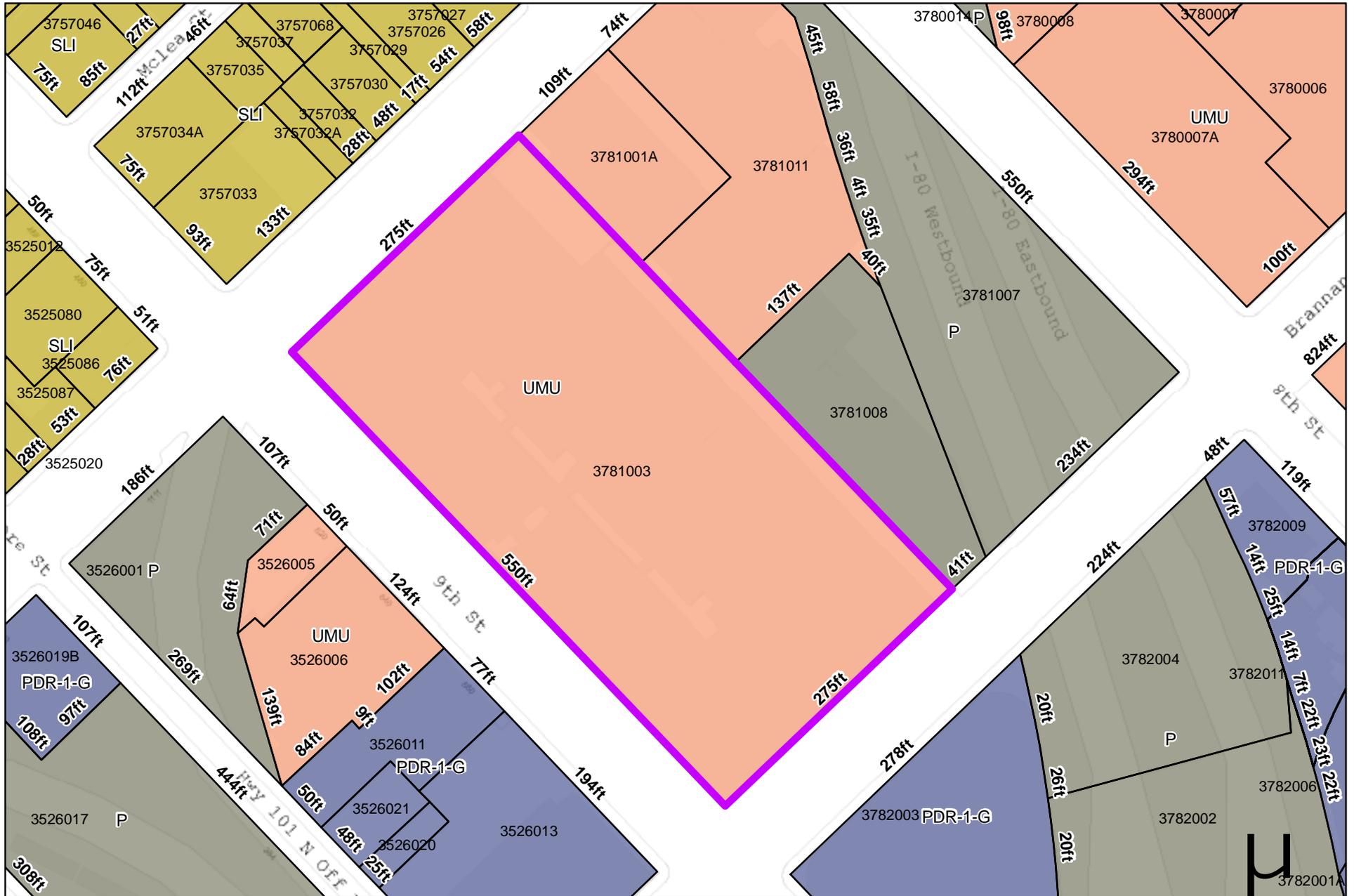
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Proposed 9th Street Power Retail SUD



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Proposed SUD Boundary



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