

1 [Planning Code, Zoning Map - Amend Zoning Map Pursuant to Settlement]

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3 **Ordinance amending the Planning Code by revising Zoning Map Sheet ZN06 to rezone**  
4 **Assessor's Parcel Block No. (AB) 2719C, Lot No. 023, located at Burnett Avenue and**  
5 **Burnett Avenue North, from Public (P) to Residential, Mixed Districts, Low Density (RM-**  
6 **1); rezoning a portion of Burnett Avenue North generally bounded by AB 2745, Lot**  
7 **No. 036, and AB 2719C, Lot No. 023, to RM-1; affirming the Planning Department's**  
8 **determination under the California Environmental Quality Act; making findings of**  
9 **consistency with the General Plan, and the eight priority policies of Planning Code,**  
10 **Section 101.1; and adopting findings of public necessity, convenience, and welfare**  
11 **under Planning Code, Section 302.**

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

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

20 Section 1. Environmental and Land Use Findings.

21 (a) The Planning Department has determined that the actions contemplated in this  
22 ordinance comply with the California Environmental Quality Act (California Public Resources  
23 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
24 Supervisors in File No. 171013 and is incorporated herein by reference. The Board affirms  
25 this determination.

1 (b) On January 18, 2018, the Planning Department determined that the actions  
2 contemplated in this ordinance are consistent, on balance, with the City's General Plan and  
3 eight priority policies of Planning Code Section 101.1. The Board adopts this determination  
4 as its own. A copy of said determination is on file with the Clerk of the Board of Supervisors in  
5 File No. 171013, and is incorporated herein by reference.

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7 Section 2. Background and Other Findings.

8 (a) This ordinance fulfills a condition of the Settlement Agreement in the action entitled  
9 George Birmingham v. City and County of San Francisco, et al. George Birmingham  
10 ("Plaintiff") seeks an access route from his property to Burnett Avenue by traversing two city-  
11 owned parcels: a vacant paper street titled Burnett North Avenue ("Public Works Property")  
12 and a surplus remnant of the Auxiliary Water Service System owned by the Public Utilities  
13 Commission ("PUC Property"). The material terms of the Settlement Agreement include  
14 Public Works vacating the remainder of the Public Works Property and seeking approvals to  
15 sell the parcel to Plaintiff; the Public Utilities Commission seeking authorization from the  
16 Board of Supervisors to sell the PUC property, otherwise known as Assessor's Block 2719C,  
17 Lot 023, to Plaintiff; the City seeking a rezoning of the PUC Property from Public to  
18 Residential Mixed Use Low Density (RM-1) and the Public Works Property to RM-1; Plaintiff  
19 agreeing to purchase the parcels for \$1,500,000, the full appraised value at the time the  
20 lawsuit was filed; Plaintiff agreeing to pay \$100,000 of the City's administrative costs; and on  
21 such other material terms as are set forth in the Settlement Agreement and the Agreement for  
22 Sale of Real Estate (attached as Exhibit C to the Settlement Agreement), contained in Board  
23 of Supervisors File No. 171004. The ordinance authorizing the City and County of San  
24 Francisco to settle the action by the material terms as set forth in the Settlement Agreement is  
25 contained in Board of Supervisors File No. 171004.

1 (b) Pursuant to the Settlement Agreement, a companion ordinance vacates the Public  
2 Works Property and approves the sale of the Public Works Property and PUC Property to  
3 Plaintiff, pursuant to the Agreement for Sale of Real Estate (attached as Exhibit C to the  
4 Settlement Agreement). This vacation ordinance is contained in Board of Supervisors File  
5 No. 171004.

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7 Section 3. The Planning Code is hereby amended by revising the Zoning Map of the  
8 City and County of San Francisco as follows:

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<u>Description of Property</u>	<u>Use District to be Superseded</u>	<u>Use District Hereby Approved</u>
10 Block 2719C, Lot 023	P	RM-1
11 Burnett Avenue North	Street (N/A)	RM-1
12 (portion of Burnett Avenue		
13 North generally bounded by		
14 AB 2745 Lot 036 and AB 2719C Lot 023)		

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17 Section 4. Effective Date. This ordinance shall become effective 30 days after  
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
20 of Supervisors overrides the Mayor's veto of the ordinance.

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

By: \_\_\_\_\_  
ROBB W. KAPLA  
Deputy City Attorney

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