

**REVISED LEGISLATIVE DIGEST**

(10/16/2012, Substituted)

[Planning Code - Upper Market Zoning]

**Ordinance amending Planning Code, Sections 721.1 and 733.1, to modify the explanation of the boundaries of the Upper Market Street Neighborhood Commercial District and the Upper Market Street Neighborhood Commercial Transit District; Section 703.2(b), to permit in a limited area food processing as an accessory use to a nearby off-site non-residential use; 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.**

Existing Law

Sections 721.1 and 733.1 of the Planning Code describe the nature of the land use controls in the Upper Market Street Neighborhood Commercial District (Upper Market NCD) and the Upper Market Street Neighborhood Commercial Transit District (Upper Market NCT), respectively. The Upper Market NCD is found from approximately Castro Street to Noe Street along Market Street and the Upper Market NCT is found from approximately Noe Street to Church Street along Market Street. The controls in these two districts are the same with the exception of the allowance for greater residential use densities in the Upper Market NCT as compared to the Upper Market NCD.

Section 703.2(b) of the Planning Code describes use limitations in the Neighborhood Commercial Districts. Section 703.2(b)(1)(C) addresses accessory uses. One limitation on accessory uses is that the accessory use must be located on the same lot of the lawfully permitted use to which it is necessary to the operation or enjoyment or appropriate, incidental and subordinate. Section 703.2(b)(1)(C)(v) further provides that food processing as an accessory use must provide for retail sale of the processed food on the same site.

Amendments to Current Law

The legislation would make minor amendments to the text of Sections 721.1 and 733.1 to revise the geographic location description of the two zoning districts. Companion legislation proposes to rezone most of the Upper Market NCD to Upper Market NCT land use controls. Consequently, the Upper Market NCD would be limited to parcels found at the northwest corner of Castro Street and Market Street, and the Upper Market NCT would include properties on or near Market Street from approximately Church Street to Castro Street.

The amendment to Section 703.2(b)(1)(C)(v) would create a limited exception to the requirement that an accessory use must be located on the same site as the permitted use and that in the case of food processing, it must be accessory to an on-site retail use. The

amendment would allow a food processing use to function as an accessory use to a nearby but off-site non-residential use. The provision limits the exception to a one block area on Noe Street near Market Street and requires the off-site accessory use to be within 300 feet of the permitted use and set back 15 feet from the front of the property. The amendment expressly provides that one seeking approval of such accessory use will be subject to the notice provisions in Planning Code Section 312(d) and (3). Further, the provision is repealed one year after its effective date, unless the Board extends or re-enacts the exception.

#### Background Information

The intent of the amendments to Sections 721.1 and 733.1 and the companion legislation is to simplify the zoning along most of the Upper Market area. The two zoning districts are essentially the same except for the differences in residential density controls and there is no longer a planning rationale for the distinction. A height and bulk change for the one corner lot in the companion legislation is to allow for higher ground floor ceiling heights in keeping with good urban design principles.

The intent of the amendment to Section 703.2(b) is to authorize as an accessory use a commercial kitchen connected to, but located off-site of, an established restaurant in the Upper Market area.