



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Zoning Map Amendment

HEARING DATE: SEPTEMBER 29, 2016

EXPIRATION DATE: N/A

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* Rezoning the Upper Market St. NCD to Upper Market St. NCT  
*Case Number:* 2016-008126MAP [Board File No. TBD]  
*Initiated by:* Planning Commission  
*Staff Contact:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362  
*Recommendation:* **Recommend Approval**

### PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to revise Section Map ZN07 of the Zoning Map to delete the Upper Market Street Neighborhood Commercial (NC) District and reclassify Block 2623, Lot 006 at 376 Castro Street and Block 2623, Lot 091 at 2416-2420 Market Street from Upper Market Street NC District to the Upper Market Street Neighborhood Commercial Transit (NCT) District.

#### The Way It Is Now:

376 Castro Street (Block 2623, Lot 006) and 2420 Market Street (Block 2623 Lot 91) are zoned Upper Market Street NC District.

#### The Way It Would Be:

376 Castro Street (Block 2623, Lot 006) and 2420 Market Street (Block 2623 Lot 91) would be zoned Upper Market Street NCT District.

### BACKGROUND

On February 21, 2013, the Planning Commission voted to recommend approval with modifications of Board File 120902, an ordinance that expanded the boundaries of the Upper Market Street NCT District to include properties along Market Street between Noe and Castro Streets. These properties were zoned Upper Market Street NC District. At the time, two properties on the northwest corner of Market and Castro Streets were not included in the rezoning because the sponsoring supervisor, Supervisor Wiener, lived within 500 feet of the two parcels. A City rule prohibits Supervisors from sponsoring legislation that could impact their property or properties within 500 feet.

The Planning Commission's action on this ordinance included a recommendation that these two parcels be rezoned to Upper Market Street NCT District; however, they were not included in the final ordinance, presumable because a separate, properly-noticed ordinance was required to rezone the properties.

These two properties are the last properties zoned Upper Market Street NC District. As part of the Article 7 Code Reorganization Project<sup>1</sup>, the Upper Market Street NC District will be deleted from the Planning Code; therefore it is imperative that these properties be rezoned either prior to or in concert with the passage of the Article 7 Reorganization Ordinance.

## ISSUES AND CONSIDERATIONS

### Upper Market NC District vs. Upper Market NCT District

The two main differences between the two zoning districts are as follows:

1. **NCT Districts do not have density limits that are determined by lot area.** The Upper Market Street NC District has a dwelling unit density limit of 1 unit per 400 sq. ft. of lot area. Density is limited in NCT Districts by how large the building can be (height and bulk limitations) and other requirements like exposure and open space. This is also called form based density and allows more dwelling units per building.
2. **NCT Districts do not have minimum parking requirements.** The Upper Market Street NC District requires 1 parking space for every dwelling unit. The Upper Market NCT District does not require parking. It allows 0.5 spaces for every dwelling unit as of right, and .75 spaces for every dwelling unit with Conditional Use authorization. A parking ratio above .75 spaces per dwelling unit is not permitted.

The subject properties' height and bulk limitation, rear yard requirements, maximum non-residential use size limits, hours of operation, and floor area ratio limits will not be altered with this ordinance. The two properties will also be eligible for the five-foot height increase for ground floor commercial, as is standard in all NCT Districts. The allowable commercial uses will mostly remain the same; however, there will be some changes. The following chart shows the changes in use controls:

Uses	Upper Mkt. NC District			Upper Mkt. NCT District		
	Floors	1st	2nd	3rd+	1st	2nd
Financial Services	P	C	NP	C	C	NP
Limited Financial Services	P	NP	NP	C	NP	NP
Business or Professional Services	P	P	C	C	P	C
Amusement Game Arcade	NP	NP	NP	P	P	NP

P= Permitted as of right

C= Conditional Use authorization required

NP= Not Permitted

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<sup>1</sup> Case 2014-001965PCA, scheduled to be heard by the Planning Commission for action on October 13, 2016.

### **Approved Conditional Use at 376 Castro Street**

On August 2, 2012, the Planning Commission approved a Conditional Use authorization for 376 Castro Street under Motion 18680, which included the following project description:

*Demolish the existing automobile gasoline station and construct a six-story, 65-foot-tall 43,070 square-foot mixed-use building. The new building will include 24 residential units, three of which will be affordable, 3,000 square feet of ground-floor commercial space, and a 14-space underground parking garage, including 12 bicycle parking spaces, with ingress and egress from Castro Street. The residential portion of the project would be 27,000 square feet in area, and includes 18 units two-bedroom, and 6 one-bedroom units.*

A permit for this project has not been issued by the Department of Building Inspection and the three year expiration date for the Conditional Use authorization has passed. Were this project's permit to come back to the Department for approval, it would likely require another Planning Commission hearing.

The proposed zoning change is an up zoning for this property because the NCT zoning designation removes density controls based on lot area; however it would have more restrictive parking controls than the current zoning and would have a dwelling unit mix requirement. That said a similar project with some modifications could still be approved under the proposed zoning.

### **RECOMMENDATION**

The Department recommends that the Commission recommend *approval* of the proposed ordinance to the Board of Supervisors.

### **BASIS FOR RECOMMENDATION**

The proposed rezoning was already endorsed by the Planning Commission in their February 21, 2013 resolution. Further, the Department recommends that the Commission recommend approval for this ordinance because it will allow for the removal a defunct zoning district from the Planning Code and bring these two properties into conformity with the rest of the this section of Market Street's zoning controls.

### **IMPLEMENTATION**

The Department has determined that this ordinance will not impact our current implementation procedures.

### **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.

### **ENVIRONMENTAL REVIEW**

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

### **PUBLIC COMMENT**

In addition to the standard mailed notice and newspaper notice, Staff contacted the owners of the subject properties with a mailed letter dated September 1, 2016. Staff received a response from Rodger Martinez,

owner of 2416-2420 Market Street. After discussing the rezoning with Staff he had no objections to the proposal. Staff also received a call from the adjacent neighbor of 2416-2420 Market Street, David Russo, and after discussing the rezoning with Staff he also had no objection to the proposal.

In response to the posters that were installed within 300' of the subject property, staff also received an email from Pat Tura for the Duboce Triangle Neighborhood Association. She inquired as to whether or not these two properties would be subject to the Market and Octavia Impact Fees; however since these properties all outside of the Market and Octavia plan area they would not be subject to those fees.

<b>RECOMMENDATION:</b>	<b>Recommend Approval</b>
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**Attachments:**

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Close-up Zoning Map
- Exhibit C: Parcel Map, Sanborn Map, Zoning Map and Site Picture
- Exhibit D: Letter to Subject Property Owners
- Exhibit E: Draft Ordinance



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Resolution No. 19749

HEARING DATE SEPTEMBER 29, 2016

*Project Name:* Rezoning the Upper Market St. NCD to Upper Market St. NCT  
*Case Number:* 2016-008126MAP [Board File No. TBD]  
*Initiated by:* Planning Department  
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**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REVISE SECTION MAP ZN07 OF THE ZONING MAP TO DELETE THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL (NC) DISTRICT AND RECLASSIFY BLOCK 2623, LOT 006 AT 376 CASTRO STREET AND BLOCK 2623, LOT 091 AT 2416-2420 MARKET STREET FROM UPPER MARKET STREET NC DISTRICT TO THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT (NCT) DISTRICT; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on June 30, 2016, The Planning Commission voted to initiate the proposed ordinance that would amend the Planning Code to revise Section Map ZN07 of the Zoning Map to delete the Upper Market Street Neighborhood Commercial (NC) District and reclassify Block 2623, Lot 006 at 376 Castro Street and Block 2623, Lot 091 at 2416-2420 Market Street from Upper Market Street NC District to the Upper Market Street Neighborhood Commercial Transit (NCT) District; and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 29, 2016 and,

WHEREAS, The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change in the environment.

WHEREAS, the Planning 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 Department staff and other interested parties; and

WHEREAS, 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 Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modifications** the proposed ordinance. The Commission's proposed modifications are as follows:

**SEC. 401. DEFINITIONS.**

In addition to the specific definitions set forth elsewhere in this Article, the following definitions shall govern interpretation of this Article:

\* \* \* \*

"Market and Octavia Program Area." The Market and Octavia Plan Area in Map 1 (Land Use Plan) of the Market and Octavia Area Plan of the San Francisco General Plan, which includes those districts zoned RTO, NCT, or any neighborhood specific NCT, a few parcels zoned RH-1 or RH-2, and those parcels within the Van Ness and Market Downtown Residential Special Use District (VMDRSUD). The Program Area shall also include the entirety of the Upper Market NCTD, ~~which includes parcels one block west of the plan area that front Market Street~~ including any portions of such district that fall outside of the Market and Octavia Plan Area.

\* \* \* \*

**SEC. 416.3. APPLICATION OF AFFORDABLE HOUSING FEE REQUIREMENT.**

The requirements of Sections 415.1 through 415.9 shall apply in the Market and Octavia Plan Area and the entirety of the Upper Market NCTD in addition to the following additional affordable housing requirement:

\* \* \* \*

**SEC. 416.5. USE OF FUNDS.**

The additional affordable housing requirement specified in this Section for the Market and Octavia Plan Area and the Upper Market NCTD shall be paid into the Citywide Affordable Housing Fund, established in Administrative Code Section 10.100-49, but the funds shall be separately accounted for. MOHCD shall expend the funds according to the following priorities: First, to increase the supply of housing affordable to qualifying households in the Market and



Octavia Plan Area and the Upper Market NCDT, second, to increase the supply of housing affordable to qualifying households within 1 mile of the boundaries of the Plan Area and the Upper Market NCDT, third, to increase the supply of housing affordable to qualifying households in the City and County of San Francisco. The funds may also be used for monitoring and administrative expenses subject to the process described in Section 415.5(f)

**SEC. 421.3. APPLICATION OF COMMUNITY IMPROVEMENTS IMPACT FEE.**

(a) Application. Section 421.1et seq. shall apply to any development project located in the Market and Octavia Program Area, *as defined in Section 401.*

\* \* \* \*

**SEC. 421.5. MARKET AND OCTAVIA COMMUNITY IMPROVEMENTS FUND.**

(a) Purpose. There is hereby established a separate fund set aside for a special purpose entitled the Market and Octavia Community Improvements Fund ("Fund"). All monies collected by DBI pursuant to Section 421.3(b) shall be deposited in the Fund maintained by the Controller. The receipts in the Fund shall be appropriated in accordance with law through the normal budgetary process to fund public infrastructure and other allowable improvements subject to the conditions of this Section.

(b) Use of Funds. The Fund shall be administered by the Board of Supervisors.

(1) Infrastructure. All monies deposited in the Fund shall be used to design, engineer, acquire, improve, and develop neighborhood open spaces, pedestrian and streetscape improvements, bicycle infrastructure, childcare facilities, and other improvements that result in new publicly-accessible facilities and related resources within the Market and Octavia Plan Area or within 250 feet of the Plan Area and within the Upper Market Street Neighborhood Commercial *Transit* District, *portions of which are located is* outside the plan area. Funds may be used for childcare facilities that are not publicly owned or publicly-accessible. The improvements, where applicable, shall be consistent with the Market and Octavia Civic Streets and Open Space

System as described in Map 4 of the Market and Octavia Area Plan of the General Plan, and Market and Octavia Improvements Plan. The funds shall be allocated in accordance with Table 421.5A.

\* \* \* \*

## 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. The proposed rezoning was already endorsed by the Planning Commission in their February 21, 2013 resolution.
2. The Commission finds that approval of this ordinance will allow for the removal a defunct zoning district from the Planning Code and bring these two properties into conformity with the rest of the this section of Market Street's zoning controls.
3. **General Plan Compliance.** The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

#### Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The proposed Ordinance is consistent with the City's current commercial land use explain. It will bring these two parcels into conformity with the other properties within this neighborhood.*

### OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

#### Policy 6.3

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.



*Currently the subject properties are regulated separately from the rest of the properties on this street with regards to density, parking requirements, and allowed uses. Including them in the Upper Market NCT District will ensure a cohesive and harmonious commercial district.*

4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

*The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character. In fact, including them within the prevailing zoning district will help preserve neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing. This rezoning will allow more density, which in turn will require more inclusionary housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

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

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

*The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

5. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 29, 2016.



Jonas P. Ionin  
Commission Secretary

AYES: Fong, Richards, Hillis, Koppel, Melgar, Moore

NOES: None

ABSENT: Johnson

ADOPTED: September 29, 2016