

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Olson Lee, Director, Mayor's Office of Housing and Community Development

FROM: *ll for* Alisa Somera, Legislative Deputy Director  
Land Use and Transportation Committee

DATE: January 17, 2017

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by the Planning Commission on January 10, 2017:

**File No. 170003**

**Ordinance amending the Planning Code to revise Sectional Map ZN07 of the Zoning Map to delete the Upper Market Street Neighborhood Commercial (NC) District and reclassify Assessor's Parcel Block No. 2623, Lot No. 006, at 376 Castro Street and Assessor's Parcel Block No. 2623, Lot No. 091, at 2416-2420 Market Street, from the Upper Market NC District to the Upper Market Street Neighborhood Commercial Transit (NCT) District; revising several sections of Article 4 to include the entirety of the Upper Market Street NCT District including portions outside of the Market and Octavia Plan Area; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org).

c: Eugene Flannery, Mayor's Office of Housing and Community Development  
Kate Hartley, Mayor's Office of Housing and Community Development

[Planning Code, Zoning Map - Upper Market Street Districts]

Ordinance amending the Planning Code to revise Sectional Map ZN07 of the Zoning Map to delete the Upper Market Street Neighborhood Commercial (NC) District and reclassify Assessor's Parcel Block No. 2623, Lot No. 006, at 376 Castro Street and Assessor's Parcel Block No. 2623, Lot No. 091, at 2416-2420 Market Street, from the Upper Market NC District to the Upper Market Street Neighborhood Commercial Transit (NCT) District; revising several sections of Article 4 to include the entirety of the Upper Market Street NCT District including portions outside of the Market and Octavia Plan Area; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.

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

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

Section 1. Findings.

(a) The Planning Department has determined that the proposed amendments are not defined as a project under the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) and CEQA Guidelines Section 15060(c)(2) and 15378 because they do not result in a physical change to the environment. The Board affirms this determination.



1 (b) On September 29, 2016, the Planning Commission, in Resolution No. 19749,  
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
3 with the City's General Plan and the eight priority policies of Planning Code Section 101.1.  
4 The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk  
5 of the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, this Board of Supervisors finds that this  
7 ordinance will serve the public necessity, convenience, and welfare for the reasons set forth in  
8 Commission Resolution No. 19749 and the Board incorporates such reasons herein by  
9 reference.

10  
11 Section 2. Planning Code is hereby amended by revising Sections 401, 416.3, 416.5,  
12 421.3, and 421.5, to read as follows:

13 **SEC. 401. DEFINITIONS.**

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

16 \* \* \* \*

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

25 \* \* \* \*

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

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

5           \* \* \* \*

6   **SEC. 416.5. USE OF FUNDS.**

7           The additional affordable housing requirement specified in this Section for the Market  
8   and Octavia Plan Area and the Upper Market NCT District shall be paid into the Citywide  
9   Affordable Housing Fund, established in Administrative Code Section 10.100-49, but the  
10   funds shall be separately accounted for. MOHCD shall expend the funds according to the  
11   following priorities: First, to increase the supply of housing affordable to qualifying households  
12   in the Market and Octavia Plan Area and the Upper Market NCT District; second, to increase  
13   the supply of housing affordable to qualifying households within 1 mile of the boundaries of  
14   the Plan Area and the Upper Market NCT District; third, to increase the supply of housing  
15   affordable to qualifying households in the City and County of San Francisco. The funds may  
16   also be used for monitoring and administrative expenses subject to the process described in  
17   Section 415.5(f)

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

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

21           \* \* \* \*

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

23           (a) **Purpose.** There is hereby established a separate fund set aside for a special  
24   purpose entitled the Market and Octavia Community Improvements Fund ("Fund"). All monies  
25   collected by DBI pursuant to Section 421.3(b) shall be deposited in the Fund maintained by



1 the Controller. The receipts in the Fund shall be appropriated in accordance with law through  
2 the normal budgetary process to fund public infrastructure and other allowable improvements  
3 subject to the conditions of this Section.

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

5 (1) **Infrastructure.** All monies deposited in the Fund shall be used to design,  
6 engineer, acquire, improve, and develop neighborhood open spaces, pedestrian and  
7 streetscape improvements, bicycle infrastructure, childcare facilities, and other improvements  
8 that result in new publicly-accessible facilities and related resources within the Market and  
9 Octavia Plan Area or within 250 feet of the Plan Area and within the Upper Market Street  
10 Neighborhood Commercial Transit District, portions of which are located ~~is~~ outside the plan  
11 area. Funds may be used for childcare facilities that are not publicly owned or publicly-  
12 accessible. The improvements, where applicable, shall be consistent with the Market and  
13 Octavia Civic Streets and Open Space System as described in Map 4 of the Market and  
14 Octavia Area Plan of the General Plan, and Market and Octavia Improvements Plan. The  
15 funds shall be allocated in accordance with Table 421.5A.

16 \* \* \* \*

17  
18 Section 3. The Planning Code is hereby amended by revising Sectional Map ZN07 of  
19 the Zoning Map of the City and County of San Francisco as follows:

20  
21 Delete the Upper Market Street Neighborhood Commercial District.

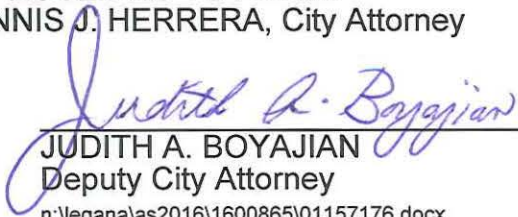
22 Reclassify the following property:  
23  
24  
25

| <u>Description of Property</u> | <u>Use District to be Superseded</u>                       | <u>Use District hereby Approved</u>                                |
|--------------------------------|--|--|
| Block 2623, Lots 006 and 091   | Upper Market Street<br>Neighborhood<br>Commercial District | Upper Market Street<br>Neighborhood Commercial<br>Transit District |

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

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

By:

  
JUDITH A. BOYAJIAN  
Deputy City Attorney

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## LEGISLATIVE DIGEST

[Planning Code, Zoning Map - Upper Market Street Districts]

**Ordinance amending the Planning Code to revise Sectional Map ZN07 of the Zoning Map to delete the Upper Market Street Neighborhood Commercial (NC) District and reclassify Assessor's Parcel Block No. 2623, Lot No. 006, at 376 Castro Street and Assessor's Parcel Block No. 2623, Lot No. 091, at 2416-2420 Market Street, from the Upper Market NC District to the Upper Market Street Neighborhood Commercial Transit (NCT) District; revising several sections of Article 4 to include the entirety of the Upper Market Street NCT District including portions outside of the Market and Octavia Plan Area; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and adopting findings of public convenience, necessity, and welfare under Planning Code, Section 302.**

### Existing Law

Block 2633, Lot 006 (376 Castro Street) and Lot 091 (2416-2420 Market Street) are zoned Upper Market Street Neighborhood Commercial District (NCD). Planning Code Section 401 defines the "Market and Octavia Program Area" as "including the Upper Market Street NCD, which includes parcels one block west of the plan area that front Market Street." Therefore, the lots being rezoned are currently subject to an Affordable Housing Fee (Planning Code Section 416 et seq.) and the Market and Octavia Community Improvements Fund Fee (Planning Code Section 421 et seq.)

### Amendments to Current Law

The above properties would be re-zoned from the Upper Market Street NC District (NCD) to the Upper Market Neighborhood Commercial Transit (NCT) District. The definition of the "Market and Octavia Program Area" in Planning Code Section 401 is revised to include "the entirety of the Upper Market Street NCT District including any portions of such District that fall outside of the Market and Octavia Plan Area." Sections 416.3, 416.5, 421.3, and 421.5 are amended to include the parcels being rezoned from NCD to NCT.

### Background Information

In February 2013, the Planning Commission voted to recommend approval with modifications of an ordinance in Board File No. 12092 that expanded the boundaries of the Upper Market Street NCT District to include properties zoned NCD along Market Street between Noe and Castro Streets. The Commission recommended including Block 2623, Lots 006 and 021, in the proposed rezoning from NCD to NCT but these additional parcels were not included in the final ordinance. These two properties are the last remaining properties zoned Upper Market NCD, and the rezoning proposed in this ordinance will bring the two properties into conformity

with the rest of Market Street's zoning controls and enable the removal of a defunct zoning district from the Planning Code and the Zoning Map. Amendment of the Article 4 sections of the Planning Code will continue the inclusion of these two properties within the Octavia and Market Program Area and thus subject to the Affordable Housing and Market and Octavia Community Improvements Fund Fees.

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