

BOARD of SUPERVISORS



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

MEMORANDUM

TO: Mohammed Nuru, Director, Public Works
Harlan Kelly, Jr., General Manager, Public Utilities Commission

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: September 19, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Sheehy on September 19, 2017:

File No. 171013

Ordinance amending the Planning Code by revising Zoning Map Sheet ZN06 to rezone Assessor's Parcel Block No. (AB) 2719C, Lot No. 023, located at Burnett Avenue and Burnett Avenue North, from Public (P) to Residential, Mixed Districts, Low Density (RM-1); rezoning a portion of Burnett Avenue North generally bounded by AB 2745, Lot No. 036, and AB 2719C, Lot No. 023, to RM-1; 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 necessity, convenience, 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: erica.major@sfgov.org.

c: David Steinberg, Public Works
Jeremy Spitz, Public Works
Jennifer Blot, Public Works
John Thomas, Public Works
Lena Liu, Public Works
Juliet Ellis, Public Utilities Commission
Donna Hood, Public Utilities Commission
John Scarpulla, Public Utilities Commission

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. ___ and is incorporated herein by reference. The Board affirms this
25 determination.

1 (b) On _____, 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. _____, 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. _____. 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. _____.

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._____.

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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:

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Use District to be Superseded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

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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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LEGISLATIVE DIGEST

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

Ordinance amending the Planning Code by revising Zoning Map Sheet ZN06 to rezone Assessor's Parcel Block No. (AB) 2719C, Lot No. 023, located at Burnett Avenue and Burnett Avenue North, from Public (P) to Residential, Mixed Districts, Low Density (RM-1); rezoning a portion of Burnett Avenue North generally bounded by AB 2745, Lot No. 036, and AB 2719C, Lot No. 023, to RM-1; 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 necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

Assessor's Block 2719C, Lot 023, located at Burnett Avenue and Burnett Avenue North and owned by the Public Utilities Commission ("PUC Parcel"), is zoned (P) for Public use. The portion of the paper street Burnett Avenue North bounded by AB 2745 Lot 036 and AB 2719C Lot 023 ("Public Works Parcel"), has no zoning designation.

Amendments to Current Law

The legislation would rezone the PUC Parcel and the Public Works Parcel to Residential, Mixed Districts, Low Density (RM-1), which is the underlying zoning of the nearest adjacent privately-owned parcel.

Background Information

The legislation is part of a settlement agreement. The ordinance approving the settlement agreement is located in Board File No. 171004.