



SAN FRANCISCO PLANNING DEPARTMENT

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 Project¹, 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

¹ 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.

RECOMMENDATION: Recommend Approval

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



Exhibit A

SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

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
Staff Contact: Aaron Starr, Manager of Legislative Affairs
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Recommendation: Recommend Approval

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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** the proposed ordinance.

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

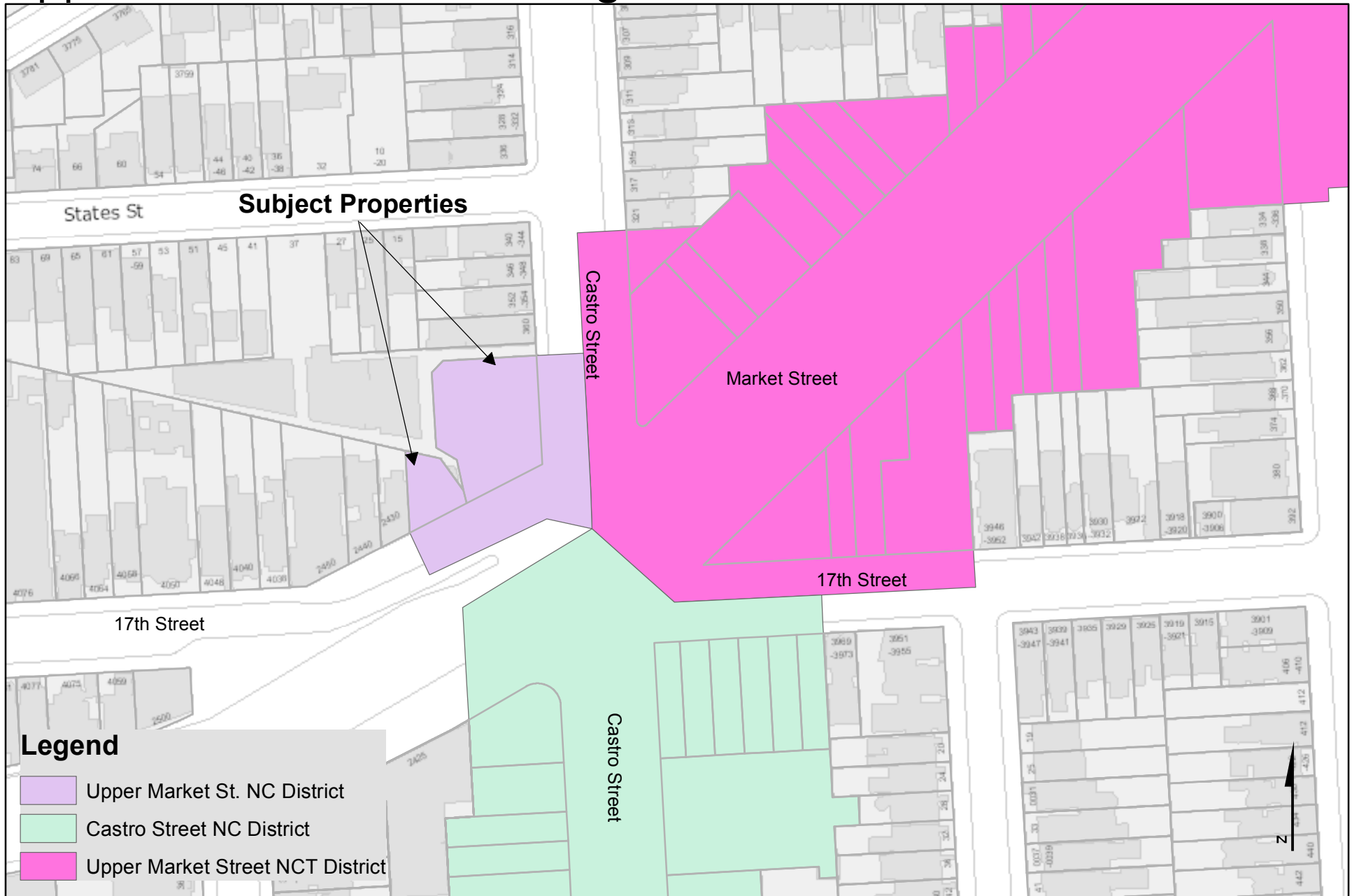
AYES:

NOES:

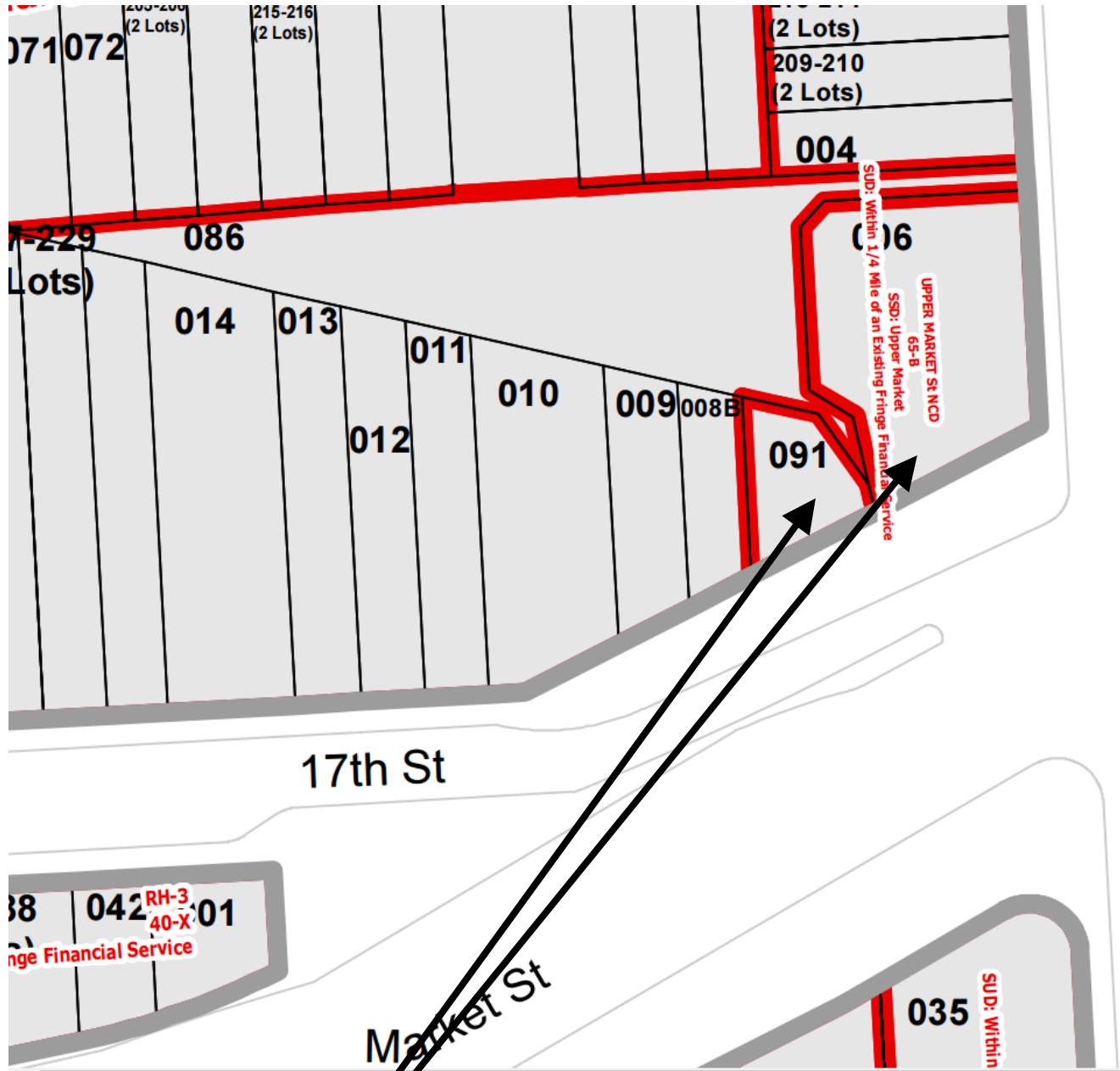
ABSENT:

ADOPTED: September 29, 2016

Upper Market St. NC Rezoning



Parcel Map



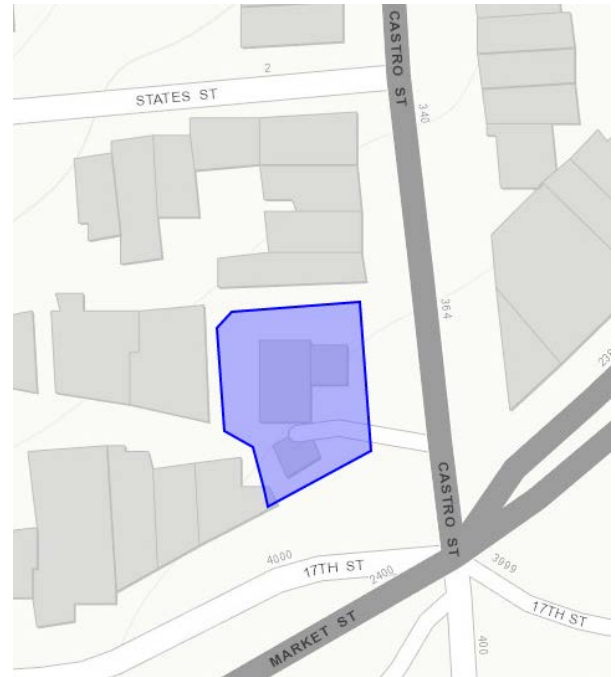
SUBJECT PROPERTIES

Zoning Map Amendment
Case Number 2016-008126MAP
Upper Market NCD

Parcel Map



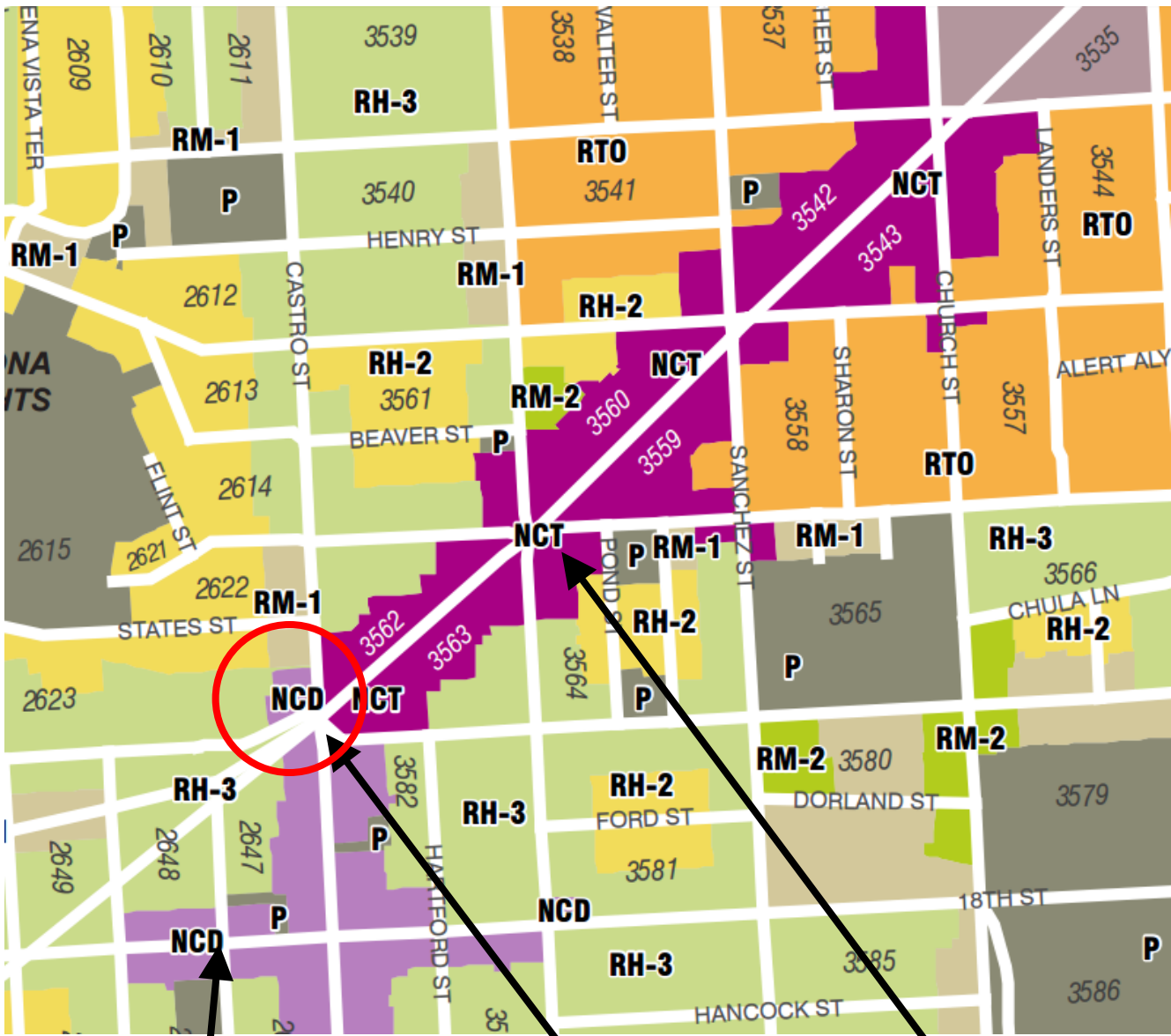
2420 Market Street



376 Castro Street



Zoning Map



Castro NCD

Upper Market NCD/
Subject Properties

Upper Market NCT



Zoning Map Amendment
Case Number 2016-008126MAP
Upper Market NCD

Subject Property



Zoning Map Amendment
Case Number 2016-008126MAP
Upper Market NCD



SAN FRANCISCO PLANNING DEPARTMENT

September 1, 2016

Rodger J. & Diane K. Martinez Revocable Trust
116 Alpine Terrace
San Francisco, CA 94117

Re: 2416-2420 Market Street
Assessor Block 2623, Lot 091

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
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To Whom It May Concern:

This letter is to inform you that on September 22, 2016 the San Francisco Planning Commission will consider an ordinance (Case Number 2016-008126MAP) that will rezone the subject property from Upper Market Street Neighborhood Commercial (NC) District to Upper Market Street Neighborhood Commercial Transit (NCT) District. The Planning Commission role is advisory to the Board of Supervisors, who makes the final decision.

This rezoning is being done now because the Upper Market Street NC District is a defunct zoning district and is being removed from the Planning Code completely as part of the Planning Code Reorganization Project (Case Number 2014-001965PCA). There are only two properties left in the City with this zoning designation, including yours, both of which will be rezoned by this ordinance.

On May 7, 2013, the Board of Supervisors voted to approve 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. At the time, these properties were zoned Upper Market Street NC District. 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 main differences between the two zoning districts are:

- 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.

Your property's 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 allowable commercial uses will mostly remain the same; however, there will be some changes.

You do not need to do anything in response to this letter or the proposed rezoning; however, if you'd like to learn more about the proposed change and what it means for your property I am available to meet with you. Please contact me at your earliest possible convenience if you would like to meet so that we can set up a time prior to the September 22 Planning Commission hearing.

Sincerely,

Aaron D. Starr
Manger of Legislative Affairs
415-558-6362
aaron.starr@sfgov.org

Exhibit E

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

2

3 **Ordinance amending the Planning Code to revise Sectional Map ZN07 of the Zoning**

4 **Map to delete the Upper Market Street Neighborhood Commercial District (NCD) and**

5 **reclassify Block 2623, Lot 006 at 376 Castro Street and Block 2623, Lot 091 at 2416-**

6 **2420 Market Street from the Upper Market NCD to the Upper Market Street**

7 **Neighborhood Commercial Transit District; 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 convenience, necessity, 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. 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

25 this determination.

(b) On _____, the Planning Commission, in Resolution No. _____,

adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and the eight priority policies of Planning Code Section 101.1.
2 The Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk
3 of the Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

8 Section 2. The Planning Code is hereby amended by revising Sectional Map ZN07 of
9 the Zoning Map of the City and County of San Francisco as follows:

10 Delete the Upper Market Street Neighborhood Commercial District.

11 Reclassify the following property:

<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 Neighborhood Commercial District	Upper Market Street Neighborhood Commercial Transit District

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17 Section 3. 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.

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

23 By:


24 JUDITH A. BOYAJIAN
Deputy City Attorney

25 n:\legan\as2016\1600365\01096425.docx