



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

TO: Board of Supervisors

CASE NO: 2003.0347TT

**Amendments to the Planning Code to implement an
additional affordable housing program.**

CASE PLANNERS: Kearstin Dischinger, 558-6284, and
Sarah Dennis, Senior Planner

REVIEWED BY: Amit K. Ghosh, Chief of Comprehensive Planning; and
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DATE: August 1, 2007

RE: Market and Octavia Additional Affordable Housing

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The Market and Octavia Area Plan and associated Planning Code, General Plan, and Zoning Map amendments were adopted by the Planning Commission on April 5th, 2007 as part of case number 2003.0347EMTZU. Section four of Case T committed the Planning Department to undertake a housing study and then return to the Planning Commission with a proposal for an additional affordable housing program (Attachment 1). Specifically, the Planning Commission requested a revised sensitivity analysis to determine the feasibility of additional fees for community benefits programming related to the proposed changes in zoning. This report summarizes these findings, the Planning Commission's deliberations on program options and the Commission's recommendation for an additional affordable housing program.

Affordable Housing in the Market and Octavia Plan

The Market and Octavia Plan includes **strong policies and zoning controls that encourage the production and retention of housing that is inherently affordable:** 1.existing housing, 2.contextual infill within existing housing, and 3.housing that is unbundled from parking costs. These three factors combine to help reduce housing costs (see Attachment 2 for a full discussion). Additionally development in the plan area includes nearly 5,960 new housing units over the 20 year Plan duration. This development will include or generate nearly **960 inclusionary housing units and 460 units of extremely low income housing** on the former Central Freeway Parcels (see Attachment 2).

The Planning Commission, recognizing the need for more affordable housing, requested staff to conduct further analysis to determine a strategy to generate additional affordable housing in the Market and Octavia Plan Area.

Refined Sensitivity Analysis

The Planning Department, in coordination with the Mayor's Office of Housing and Seifel Consulting conducted a revised sensitivity analysis to determine the potential for an additional affordable housing contribution from parcels that receive upzoning. The methodology employed in this analysis is similar to the land residual model used for establishing the Rincon Hill Community Improvements Fee and the recent revisions to the Citywide Inclusionary Housing Program. This analysis compared the development potential of existing zoning and proposed zoning on four particular parcels. Data for costs and sales were based on the Citywide Inclusionary Housing Analysis approved by the Planning Commission in July 2006.

The refined sensitivity analysis focused on the parcels that received significant upzoning through adoption of the plan as directed by the Planning Commission (See Attachment 3). Note that very few parcels receive height increases greater than 5 feet. Of those receiving a significant height increase, the analysis focused on four parcels that are most likely to see development in the next 20 years (see Attachment 3).¹

Summary of Findings

Table 1 offers a summary of the analysis conducted on one of the representative sites. The land residual, or the value of the land, is the difference between the average projected revenue from sales and the average construction costs per unit. The changes in development potential on this parcel that result from the Market and Octavia zoning controls, increase the value of the land by a projected \$6.7 million. The two new community improvements programs, and associated fees, more than offset the increased value by collecting approximately \$9.2 million dollars for open space, greening, transit improvements, recreational facilities, and other identified community improvements. This result is consistent with the findings on the other sites. In other words, the new fees approved by the commission on April 5th very accurately recapture the increase in value conferred through the rezoning.

¹ Developers or property owners have inquired about the Market and Octavia controls for at least three of the four parcels included in the analysis. Other parcels that have received significant upzoning are less likely to be developed in the near term because they are owned or leased by the city for commercial space or present particularly changing development constraints due to lot configuration.

Table 1. 400 foot tower, Market and Van Ness, “Honda site”

	Existing Controls	Proposed Controls	Net Change
Development Program (height/number of units)	150 ft/330 units	400 feet/ 534 units	
Revenue from Sales (per unit)	\$ 753,364	\$ 875,105	
Construction Costs (per unit)	\$ 692,546	\$ 824,974	
Net Land Value (per unit)	\$ 60,817	\$ 50,131	
Net Representative Land Value (site)	\$ 20,069,718	\$ 26,769,915	\$ 6,700,197
Market and Octavia Community Improvements Program	\$ -	\$ 5,340,000	
Van Ness and Market FAR Bonus Program	\$ -	\$ 3,832,500	
Market and Octavia Community Improvements Total		\$ 9,172,500	
Net Representative Land Value (site)	\$ 20,069,718	\$ 17,597,415	\$ (2,472,303)

The increased value of the property as a result of upzoning is offset by the Market and Octavia Community Improvements Fee (\$10 on Residential and \$4 on Commercial), and the Van Ness and Market Neighborhood Infrastructure program (\$15 for additional floor area ratio (FAR) credits). An additional fee program would decrease the value of the land, with the likely consequence of making development of the site infeasible, therefore impeding the implementation of the Market and Octavia Plan and its associated improvements.

Staff Report to the Planning Commission

The Commission directed analysis indicates that an additional affordable housing program on top of the fees described above is not feasible in the Market and Octavia Plan Area. Not even in cases of significant upzoning because where there is significant upzoning there are additional fees, specifically the Van Ness and Market FAR bonus Program.

Given the Planning Commission’s commitment to affordable housing in the Market and Octavia Plan Area staff revisited the community improvements program, as approved by the Planning Commission on April 5th to determine the impact of re-directing a portion of funds identified for other infrastructure programs to an additional affordable housing program.

A Brief Review of the Community Improvements Program

The Market and Octavia Community Improvements Program offers a strategy for the city to deliver the needed transportation, pedestrian, bicycle, childcare, library, open space, streetscape, recreational facilities, and automobile facilities to support the area as a transit oriented neighborhood (see Attachment 4 for a summary of major projects). The general notion of “growth paying for growth” is articulated and implemented through the Community Improvements Program. Community members and developers have continually expressed the need for these infrastructure improvements to support a balanced growth of the neighborhood; in fact community members have continued to identify additional infrastructure needs in the plan area.

As currently structured the Community Improvements program is comprised of two new fees, the Market and Octavia Community Improvements Impact Fee (\$10 residential, \$4 commercial) and the Van Ness and Market Special Use District (SUD) FAR Density Bonus Program (\$15 for density above 9:1 FAR). **The projected revenue of these two programs is expected to fund approximately 30% of the total needs identified in the community improvements program, or \$76 million.** Staff has identified additional funding mechanisms that could help fill this gap including the transit impact fee, future impact fees on parking and curb cuts, community benefits districts, parking benefits districts, assessment districts, state, federal, and local grants, and to new property tax revenue. Assuming the program successfully captures these additional revenue sources, **there is still a projected 10-20% deficit over the 20-year period, approximately \$30-60 million.** The city will use the impact fee revenue as seed money to leverage matching grants to fill this gap.

A Brief Review of Affordable Housing in the Market and Octavia Plan

The Market and Octavia Plan includes policies and controls that encourage the production and retention of housing that is inherently affordable. Additionally all projects in the plan area will be subject to the recently increased citywide inclusionary housing program that requires 15% onsite or 20% offsite. Many of the projects in the plan area, especially the infill development, will choose to fulfill this requirement by providing the housing onsite. Additionally projects in the Van Ness and Market Downtown Residential SUD are required to provide the housing onsite. In total the Planning Department projects that this program will produce nearly 1000 new affordable housing units. The central freeway parcels will include an additional 460 units of extremely low-income housing. **The combined total of nearly 1,500 new affordable units, represents nearly 25% of the total growth projected in the plan area.**

Ensuring a Balanced Community Benefits Program

Ultimately the city will have to look beyond the plan-generated revenue to meet the needs for affordable housing and for the other infrastructure types. The reasons for dedicating plan generated revenue to housing or community infrastructure improvements include:

1. Express the City's commitment to meeting the needs identified
2. Recognize that new development generates demand for diverse infrastructure types
3. Provide seed money to leverage additional funds and grants
4. Encourage city agencies to incorporate key projects into their work program

The exact proportion of plan-generated revenue dedicated to each set of needs is difficult to compare directly because the cost of providing housing is much higher than some of the other community infrastructure improvements. Also project sponsors sometimes provide housing units or amenities rather than pay fees. If we monetize contributions, the plan generates more dollars for affordable housing. Table 2 shows the revenue projections for four sites in the VNMDR SUD. These projects participate in both of the Market and Octavia Community Improvements Programs and the Citywide Inclusionary Housing Program.² Roughly 68% of the plan-generated revenue is diverted to affordable housing from these four projects. Again, providing affordable housing is expensive; this \$67 million is roughly equivalent to 245 units of inclusionary housing. On the other hand the \$22.4 million of community improvements revenue could fund all the street plantings in the entire plan area; or a third of the Van Ness BRT; or all of the planned transit preferential streets and pedestrian improvements to priority intersections in the plan area; or 9 percent of the total Market and Octavia Community Improvements Program.

Table 2. Projected Plan Generated Revenue for four sites in the Market and Octavia.

	400 ft/ 524 units	400 ft/ 334 units	250 ft/ units	228 250 ft/ units	138	Total	Percent of Total Contribution
Market Octavia Impact Fee	\$ 5,240,000	\$ 3,340,000	\$ 2,280,000	\$ 1,380,000		\$ 12,240,000	12%
Van Ness Market FAR bonus program	\$ 3,644,944	\$ 4,042,402	\$ 1,274,976	\$ 1,207,500		\$ 10,169,822	10%
Community Improvements, per Unit	\$ 16,956	\$ 22,103	\$ 15,592	\$ 18,750		\$ 18,350	
Community Improvements, per Site	\$ 8,884,944	\$ 7,382,402	\$ 3,554,976	\$ 2,587,500		\$ 22,409,822	23%
Affordable Housing, per Unit	\$ 54,780	\$ 54,780	\$ 54,780	\$ 54,780		\$ 54,780	
Affordable Housing, per Site	\$ 28,704,720	\$ 18,296,520	\$ 12,489,840	\$ 7,559,640		\$ 67,050,720	68%
Total, per Unit	\$ 80,167	\$ 82,613	\$ 77,724	\$ 81,020		\$ 80,476	
Total, per Site	\$ 42,007,648	\$ 27,592,742	\$ 17,721,008	\$ 11,180,760		\$ 98,502,158	100%

Dedicating a greater portion of the Market and Octavia Community Improvement revenue to affordable housing **will require an increased commitment from the city's general funds, implementing agencies, and the entire city family to identify adequate funds to develop the needed community improvements infrastructure.**

Program Options Considered by the Commission

The Planning Commission considered redirecting a portion or all of the Van Ness and Market FAR Bonus program to affordable housing. As approved by the Planning Commission on April 5th, the entire \$15 per sf of FAR above 9:1 is routed

² Note: The affordable housing requirement is monetized for the purposes of this analysis but project sponsors are required to provide at least 50% of their requirement onsite.

to the Market and Octavia Community Improvements Program. The Van Ness and Market FAR Bonus Program is the revenue program most directly related to upzoning. Funds from this program will be generated in lump sums that would provide a meaningful contribution to an affordable housing project.

Based on the analysis conducted by Seifel, the FAR bonus program is projected to generate over \$10 million over the life of the plan.³ According to the Mayor's Office of Housing, \$10 million could provide seed funding for 70 to 100 units of affordable housing. In contrast \$10 million is about 4% of the Market and Octavia Community Improvements Program, and could fund Brady Park (\$2.5 million), improvements to the Market and Van Ness Muni entrances (\$1 million), dedicated transit lanes on key streets (\$5 million), and pedestrian improvements at dangerous intersections (\$1.5 million).⁴

Recommended Action

The Planning Commission adopted a revised Section 249.33, which would direct the full \$15 per square foot to infrastructure until the time that the Market and Octavia Community Improvements Program has generated \$211 million from various revenue sources. Once the Community Improvements program is *fully funded* all additional revenue generated through section 249.33 will be directed to the Citywide Affordable Housing Fund.

Attachments

Attachment 1. Section 4. Outlining the Planning Commission's request for additional analysis and an additional affordable housing program.

Attachment 2. Excerpt of February 8th Transmittal Memo to Planning Commission

Attachment 3. Map of Changes in Heights with selected parcels highlighted

Attachment 4. Summary table of key Market and Octavia Community Improvements

³ This projection assumes that building currently owned by the city, such as the Bank of America and Rite Aid building will not be redeveloped in the next 20 years.

⁴ Note these projects are listed as examples, the actual programming of the funds would require input from the CAC, Interagency Plan Implementation Committee (IPIC), and approval by the Board of Supervisors.

Section 4. Additional Affordable Housing Study and Effective Date of This Ordinance and Accompanying Ordinances: The Planning Department shall prepare a study of the potential for an increased affordable housing requirement for parcels that are granted upzoning through the Market and Octavia Plan.

The study shall consist of the following analysis:

- a. Revised Sensitivity analysis. The study will look at a number of prototypes to determine whether proposed levels of upzoning change the economic impacts of adjusted inclusionary requirements on market-rate housing projects on upzoned parcels; Specifically the study shall compare existing development potential to new development potential under Market and Octavia zoning controls. The study shall analyze whether the increased potential would make increased affordable housing contributions feasible. The study shall focus on development on sites that received increased heights through the Market and Octavia Area Plan but shall not limit the definition of upzoning to height increases. The analysis will evaluate what level of additional affordable housing requirement, if any, is appropriate on sites that were upzoned without jeopardizing the feasibility of the project. This information will be developed in consultation with economic consultants and presented at a public hearing approximately thirty to 60 days after Planning Commission adoption of the Market and Octavia Plan.
- b. Additional Affordable Contribution Program. Based on the findings of the updated sensitivity analysis, various models for implementing an additional affordable housing requirement will be evaluated. The Planning Department shall recommend the most appropriate mechanisms for increasing affordable housing requirements in select areas of the Market and Octavia Area Plan. The program shall be codified as a supplement to section 315 that calls for specific additional affordable housing contributions for parcels deemed to be 'upzoned'. The Department shall evaluate the following potential mechanisms:
 - i. a higher inclusionary housing requirement,
 - ii. an additional fee contribution to affordable housing,
 - iii. additional onsite affordable housing requirements, and

- iv. all additional strategies recommended by the Planning Commission.
- c. Timeline. The Planning Department shall present initial findings of the sensitivity analysis within 30 to 60 days of Planning Commission adoption of the Market and Octavia Plan. The Planning Department shall recommend the appropriate increased affordable housing program within three months of Planning Commission adoption of the Market and Octavia Plan.
- d. Effective Date. The Market and Octavia Plan, including this ordinance, and accompanying Market and Octavia General Plan Amendment and Zoning Map Amendment on file in Board File No. _____, will be effective on the effective date of the additional affordable housing requirement program that the Board enacts consistent with the findings of the revised sensitivity analysis described above.

- - Transmittal of Addendum to Initiation Package Prior to Adoption - -

Executive Summary Addendum

For Hearing on February 8th 2007
Action Proposed for February 15th 2007

Project Name: Market & Octavia Neighborhood Plan—Amendments to the General Plan, Planning Code and Zoning Map

Case Numbers: 2003.0347E Certification of EIR and CEQA Findings
2003.0347M Amendments to the General Plan
2003.0347T Amendments to the Planning Code
2003.0347Z Amendments to the Zoning Map
2003.0347U Interim Procedures

Case Planners: AnMarie Rodgers, Plan Manager 558-6395, Kearstin Dischinger, Stephen Shotland, and Aksel Olsen

Reviewed By: John Billovits, 415.558.6390

Start Excerpt

Affordable Housing

Traditional Affordable Housing

The Market and Octavia Plan estimates that nearly 5,960 new housing units could be constructed over the 20 year Plan duration in this transit-oriented neighborhood. Of this growth, 873 would be affordable housing units built in the plan area and an additional 550 affordable units would be built at off-site locations within a one-mile radius of the generating development. Of the 873 affordable units within the plan area, 460 planned on the former Central Freeway parcels are scheduled for Redevelopment Agency funding. This housing would be reserved for very low income households earning below 50% of the Area Median Income (AMI)⁵; many of these units will be reserved for specific

⁵ Area Median Incomes as of January 1, 2007

populations such as seniors, formerly homeless, developmentally disabled, or first time homeowners. The remaining 413 affordable units in the plan area will be produced through the existing inclusionary housing requirement.

Inclusionary ownership units are reserved for households earning a maximum of 120% of the AMI with an average of 100% AMI, and inclusionary rental units are reserved for households at 60% of the AMI or below.

Beyond affordable housing built within the plan area, development within the area is expected to generate approximately 550 affordable units at “offsite” locations within 1 mile of the generating development, which could be in or outside of the Plan Area.. Housing units constructed offsite and through payment of in lieu fees are likely to offer increased affordability to residents. Offsite units are more likely to be rental, where onsite units are often ownership because they are most likely to be constructed as part of an ownership structure. In-lieu fees are often used to leverage additional subsidy and ultimately produce housing units accessible to households well below the 60% AMI cap required by the inclusionary requirement. For this reason, in-lieu fees offer great value in housing, offering housing to the most needy.

In total, **approximately 15% (873 units)** of the new units in the plan area will be affordable and 1,423 new, affordable units will be built within a mile of developments within the plan area.

	Number of Units	Percent of New Units in the Plan Area	Percent of New Units produced Total
Total production in the plan area	5960	100%	
Market rate	5088	85%	78%
Below 50% AMI	460	8%	7%
Onsite inclusionary (60% or 100%)	413	7%	6%
Off-site inclusionary/ in lieu (60% or 100%)	550	--	8%
Total affordable units	1423		

	One person	Two person	Four Person
50% Of Median	\$31,950	\$36,500	\$45,600
60% Of Median	\$38,300	\$43,750	\$54,700
80% Of Median	\$51,100	\$58,350	\$72,950
100% Of Median	\$63,850	\$72,950	\$91,200
120% Of Median	\$76,600	\$87,550	\$109,450

Additional Affordable Housing Benefit Conferred by the Plan

Beyond the traditional measures for affordable, subsidized housing, the Plan encourages the production and retention of housing that is inherently affordable: existing housing, contextual infill within existing housing, and housing that is unbundled from parking costs. These three factors combine to help reduce housing costs.

Existing Housing Stock: Discouraging Demolitions and Dwelling Unit Mergers
Two key housing cornerstones of the Market & Octavia Plan are: “Do not displace people – no homes should be lost” and “Encourage diverse and affordable housing.” Based upon these community values the Plan acknowledges that existing housing stock, especially rent-controlled housing, is some of the most affordable housing in the Plan Area. Therefore, housing demolitions, and dwelling unit mergers are strongly discouraged. Objectives and policies contained in the Housing Element of the City’s General Plan discourage residential demolitions, except where it would result in replacement housing equal to or exceeding that which is to be demolished. This policy will be applied in the Market & Octavia area in such a way that new housing would at least offset the loss of existing units, and the City’s affordable housing, and historic resources would be protected. The plan maintains a strong prejudice against the demolition of sound housing, particularly affordable housing. Even when replacement housing is provided, demolitions would be permitted only through conditional use in the event the project serves the public interest as measured by the following criteria: (1) affordability, (2) soundness, (3) maintenance history, (4) historic resource assessment, (5) number of units, (6) superb architectural and urban design, (7) rental housing opportunities, (8) number of family-sized units, (9) supportive housing or serves a special or underserved population, and (10) a public interest or public use that cannot be met without the proposed demolition.

Dwelling-unit mergers reduce the number of housing units available in an area. If widespread, over time, dwelling unit mergers can drastically reduce the available housing opportunities, especially for single- and low-income households. Policy 2.2 of the Housing Element of the General Plan and this plan maintain a strong prejudice against dwelling unit mergers with the goal of maintaining the neighborhood housing stock and an appropriately balanced distribution of unit sizes.

Contextual Infill Housing Units

There are numerous opportunities for small-scale infill housing to be constructed throughout the plan area. New units can be added to existing residential uses, and new housing can be built on small lots—providing essential housing within the area’s established urban fabric. Encouraging affordable infill housing that is consistent with the historic pattern of the area offers a special opportunity for accessory units. As described in a New York Times article in December, 2006, “Once fairly common in large houses but prohibited by zoning ordinances after World War II, so-called accessory apartments in places like garages or attics are now seen as one way to expand the supply of moderately priced rentals. They are intended for older people on fixed incomes, young people starting out and workers needed for essential but relatively low-paying jobs.” Such units being an efficient use of space and part of the historic character are permitted under the Plan.

Housing and Parking: Decoupling Housing & Parking Costs and Costs of Car Ownership

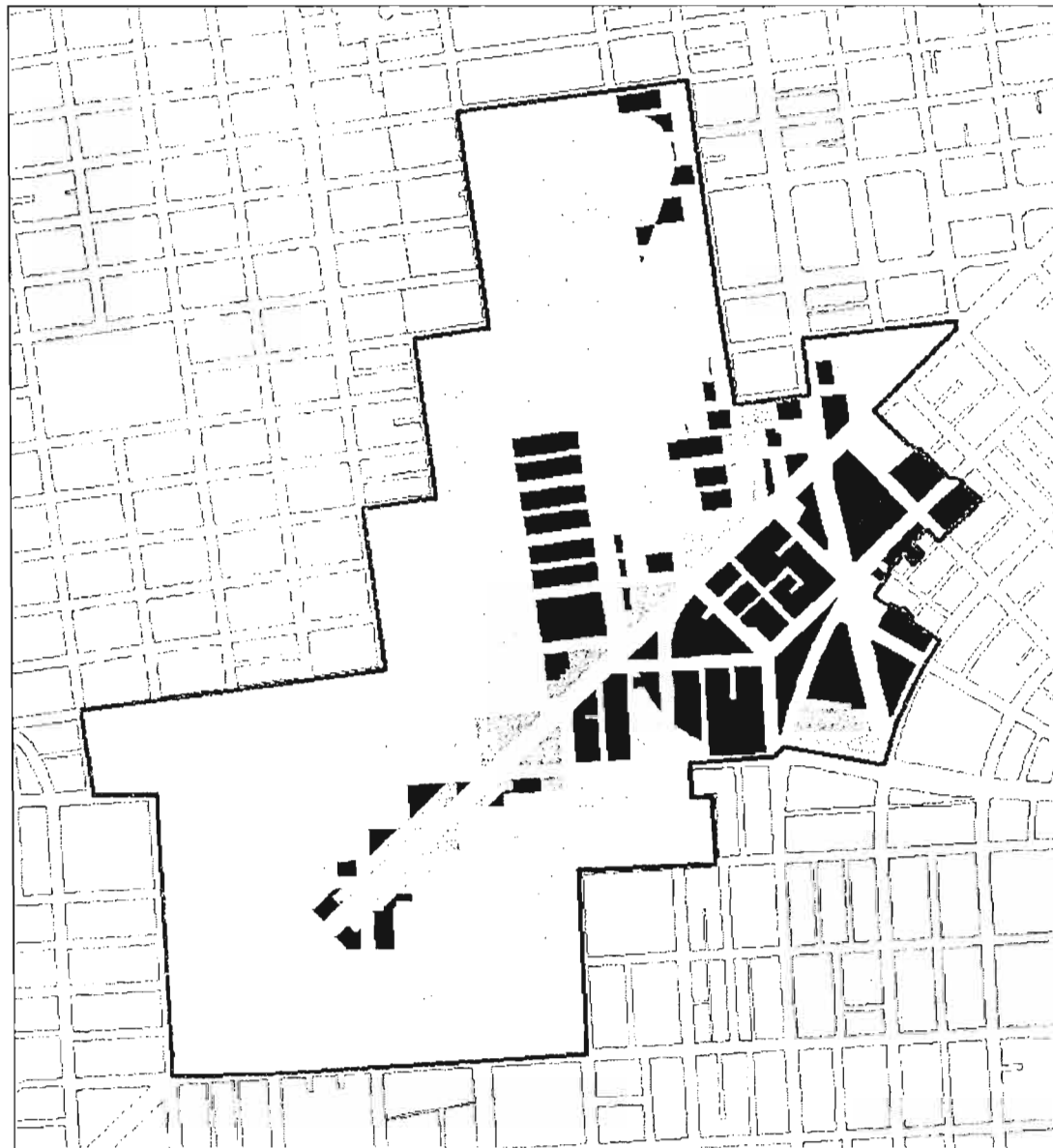
The Plan seeks to make parking cost transparent to users and enable residents choice in purchasing housing with or without parking. The cost of parking is often aggregated in other costs, especially in rents for residential and commercial property. This forces people to pay for parking, with no consideration of need or the availability of alternatives to driving. This can be avoided by requiring parking costs to be made visible and disaggregated from residential rents. In addition, minimum parking requirements are one of the most significant barriers to new housing, especially affordable housing, and transit-oriented development in the plan area. Providing parking as currently required reduces the total number of units that can be accommodated on a given site and increases the cost of individual units to residents. Housing can be built more efficiently, affordably, and more consistently with neighborhood character if parking is not required.

Finally, because public transit, walking, and bicycling are convenient and attractive ways to get around in the Plan area, residents here often live with fewer cars, or without a car at all. The fact that they need to own, store, and maintain fewer cars not only enables residents to live more affordably, but will also allow new housing to capitalize on the area’s accessibility by other

transportation modes. New housing can add life to the area without adding new cars to its streets, be more affordable both to developers and residents, and minimize the negative impacts of parking facilities on neighborhood streets.






Affordable Housing Recommendation: Plan Controls are Appropriate

In many respects, this plan does not diverge from established and continually evolving citywide policies and programs of housing affordability. It does not establish new inclusionary standards, new funding mechanisms, nor create its own solutions to homelessness in the city. On these matters, which cannot be affected on an area-by-area basis, the Plan defers to larger citywide solutions. While opportunities in this plan area alone cannot solve the City's housing shortages, the Market & Octavia area has a significant contribution to make, and there is much to be gained from it. There are tremendous opportunities for new infill housing that can strengthen place, such as the vacant Central Freeway parcels, and enhance its role as a walkable, transit-oriented neighborhood that supports urban living. There are significant gains to be made by decoupling the costs of parking from the costs of housing and allowing more choice for residents. The traditional housing stock in the Market and Octavia neighborhood supports a variety of living arrangements— individual homes, flats, apartments— some owned but mostly rented, including various forms of group housing and assisted living.

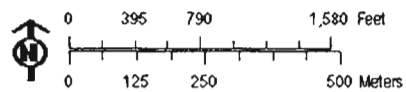


Change in Heights, Feet

Heights_difference

-  Decrease Larger than 10 Feet
-  Decrease Less than or Equal to 10 Feet
-  No Change
-  Increase Less than or equal to 10 Feet
-  Increase Larger than 10 Feet

Changes in Heights from Existing Controls



Attachment 4

Projected Costs for Market and Octavia Community Improvements		
	Projected Costs	Funding Needs
Open Space		
A1	"Living Street" Improvements for select Alleys	\$33,030,000
A2	Street Tree Plantings for Key Streets	\$21,310,000
A3	McCoppin Street Greening	\$1,500,000
A4	Brady Park - New Open Space SoMa West	\$2,470,000
A5	McCoppin Plaza - New Open Space	\$880,000
A6	McCoppin Plaza Extension - New Open Space	\$2,030,000
A7	Patricia's Green in Hayes Valley - Recently Built	\$1,500,000
A8	Under Freeway Park - Near Valencia Street	\$2,190,000
A9	Hayes Green Rotating Art Project	\$250,000
A10	Improvements to Existing Parks	TBD
Moving People and Goods		
A11	Octavia Boulevard - Recently Built	\$47,830,000
A12	Immediate Freeway Mitigation	\$660,000
A13	Study Further Central Freeway Removal	\$200,000
A14	Hayes Street Traffic Study	\$200,000
A15	Improve Safety of City Parking Garages	\$70,000
A16	Parking Supply Survey and Program Recommendations	\$300,000
A17	Pedestrian Improvements for Priority Intersections	\$14,810,000
A18	Extend Octavia ROW to Golden Gate Avenue	\$1,630,000
A19	Church Street and Van Ness Avenue Muni Metro Entrance	\$2,140,000
A20	Widen Hayes Street Sidewalk	\$2,400,000
A21	Dolores Street Median Extension	\$350,000
A22	Re-establishment of Vacated Alleyways	\$2,430,000
A23	Van Ness Bus Rapid Transit Project	\$58,340,000
A24	Transit Preferential Street Improvements	\$8,290,000
A25	Dedicated Transit Lanes	\$4,990,000
A26	Church Street Improvements	\$4,640,000
A27	Transit Pass Program, as parking mitigation	\$4,920,000
A28	Transit user Infrastructure	TBD
A30	Bicycle Network Improvements	\$890,000
A31	Muni Bike Racks	\$40,000
A32	On-Street Bike Racks	\$20,000
A33	Page St Bicycle Boulevard	\$630,000
A34	Childcare Facilities	
A34.1	Existing Needs (deficit)	\$10,710,000
A34.2	Future Needs	\$6,460,000
A35	Library Materials	\$690,000
A36	Recreational Facilities	
A36.1	Existing Needs (deficit)	\$0
A36.2	Future Needs	\$11,310,000
A37	Duboce Streetcar Museum	\$3,750,000
A38	Economic Development Plan	TBD
A39	Historic Resource Survey	\$260,000
A40	Plan Area Monitoring	\$200,000
A41	Capital Improvements Program Administration	\$7,330,000
A42	Operations and Maintenance, existing and new facilities	TBD
Subtotal		\$261,500,000
		\$211,930,000

SAN FRANCISCO

PLANNING COMMISSION

RESOLUTION NO. PC RES NO. 17460

WHEREAS, Section 4.105 of the Charter of the City and County of San Francisco mandates that the Planning Department shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the Planning Code.

The San Francisco Planning Department is proposing to amend the Planning Code to add the Van Ness and Market Downtown Residential Special Use District (VNMDR-SUD).

On April 5th, 2007 the Planning Commission adopted the Market and Octavia Plan including amendments to General Plan, adding the Market and Octavia Area Plan as a new area plan and making related amendments to other elements, area plans, and the Land Use Index of the General Plan; the Planning Code, and the zoning map, in case 2003.0347 EMTZ.

As adopted, the Market and Octavia plan provides a comprehensive affordable housing program, as described in summary here. Key plan policies encourage the development and retention of housing for all household types. The Planning Department will pay special attention to the development and retention of affordable housing in the Market and Octavia Plan Area including reporting and monitoring the expenditure of affordable housing revenue generated through development in the plan area as part of the larger Market and Octavia monitoring program codified in Section 341 of the Planning Code. Specifically the Planning Department and the Mayor's Office of Housing shall aim to expend a significant portion of the additional affordable housing revenue generated from development in the plan area in or near the Market and Octavia Plan Area. This could include the identification of a demonstration project funded in part through funds made available through the Mayor's Office of Housing.

In adopting the Market and Octavia Plan on April 5, 2007 the Planning Commission proposed that the Board of Supervisors adopt amendments to the Planning Code that included the addition of a Section 4 related to the investigation, development and adoption of the "Additional Affordable Housing Requirement Program" for certain areas of the Market and Octavia Plan area. Section 4 directed Planning Department staff to (1) study whether proposed levels of upzoning change the economic impacts of adjusted inclusionary housing requirements on market-rate housing projects on upzoned parcels; and (2) to recommend the most appropriate mechanism for increasing affordable housing requirements in select areas of the Market and Octavia Area Plan as

an Additional Affordable Housing Requirement Program if feasible pursuant to the increased sensitivity analysis.

The Planning Commission further recommended to the Board that the General Plan amendment, the Planning Code text amendments, and the Zoning Map amendments associated with the Market and Octavia Area Plan would not be effective until the effective date of the Additional Affordable Housing Requirement Program.

The Planning Department staff conducted a revised sensitivity analysis at the Commission's direction and found that an additional affordable housing requirement program in the form of a new or additional fee is not feasible. Given the findings of the revised sensitivity analysis the Department provided the Planning Commission two possible options that would provide more funding for affordable housing without increasing the overall financial burden on new development; the first option redirected a portion of the Van Ness FAR density bonus program to affordable housing, and the second option directed the entire Van Ness and Market FAR density bonus program to affordable housing.

On June 7, 2007, the Planning Commission approved a Resolution of Intent an amendment to the Planning Code, adding Section 249.33 of the Code to establish the Additional Affordable housing Requirement Program, by adoption of Resolution No. 17446.

On July 12, 2007 the Planning Commission deliberated on and rejected the two program options initiated by Planning Commission resolution 17446. The Planning Commission sees the Community Improvements Program, especially the new infrastructure planned for the Van Ness and Market Downtown Residential Special Use District as central to the Market and Octavia Plan. Therefore the Commission reserved the funding provided through this program for Community Infrastructure.

The Planning Commission recommended that Section 249.33 be revised to direct all funds generated through the Van Ness and Market FAR density bonus program to Community Improvements such as those listed in item P-1 The Market and Octavia Community Improvements Program Document until such time that the Community Improvements program has generated \$211 million for capital needs; the commission recognizes that these funds may come from various sources in addition to developer impact fees, and that \$211 million represents an approximation for the capital costs, but do not account for maintenance costs and additional programming that may be identified over the life of the plan. Recognizing that the Community Improvements Program could meet funding goals through alternate sources, the Planning Commission recommends that any funds generated by section 249.33 after the Market and Octavia Community Improvements program has reached the funding goal of \$211 million, should be directed to affordable housing, so that any amounts in excess of \$211 million should be allocated to providing affordable housing.

A draft ordinance, attached hereto as Exhibit TT-3, has been drafted in order to make revisions to the Planning Code necessary to implement the Additional Affordable Housing Requirement Program in the Market and Octavia Plan Area, including an amendment to Planning Code Section 249.33 which establishes the Van Ness and

Market Downtown Residential Special Use District. The City Attorney's Office has reviewed the draft ordinance and approved it as to form.

Planning Code Section 101.1(b) establishes eight priority policies and is the basis by which differences between competing policies in the General Plan are resolved. The proposed legislation is consistent with the eight priority policies, in that:

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

The proposed amendments will have a positive effect on neighborhood serving retail uses. The Van Ness and Market Downtown Residential Special Use District (VNMDR SUD) supports existing and new commerce by requiring ground floor retail in commercial areas and other improvements to the pedestrian realm. New development enabled by the Market and Octavia Plan will enhance the neighborhood commercial districts along Market Street, providing potential employment and ownership opportunities for San Francisco residents. The proposed amendments will support the creation of new housing units, providing a market for increased retail uses along these corridors and allow expansion of the customer base for neighborhood serving businesses beyond the constraints of automobile congestion and parking.

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

The VNMDR SUD protects and enhances the existing neighborhood character by applying appropriate height and bulk limits, protecting landmark and other historic buildings, reinforcing neighborhood commercial districts, preserving and enhancing cultural and educational institutions, marking major intersections as landmarks, discouraging land assembly, and detailing fundamental design principles.

The proposed height and bulk controls emphasize consistency with current development patterns. Additionally the controls were designed with a focus on protecting sunlight access for streets and alleyways.

Neighborhood-serving retail will be concentrated along Market and Van Ness Avenue accordant with existing patterns.

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

The proposed amendments will have a positive effect on the City's housing stock, and the Market and Octavia Neighborhood's share of housing. They will enable the creation of new housing units in the Market

and Octavia Neighborhood, positively effecting the City's housing supply. In projects with over (five units, up to 15% to 20% of the units would be permanently affordable) ten units, twelve to seventeen percent of these units would be permanently affordable pursuant to the City's existing inclusionary housing requirement. Additional mechanisms to ensure permanent housing affordability include preservation of existing housing stock, unbundling parking from housing, and flexibility in density controls. The projected redevelopment of the 22 Central Freeway parcels will result in the net increase of about 800 to 900 housing units in the Project Area by 2025. Approximately 50% of these units will be available at below market rates. The plan requires that any demolished units be replaced by an equal or greater number of units.

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

The proposed amendment would not result in commuter traffic impeding Muni transit service or overburdening the streets or neighborhood parking. Currently numerous bus lines and Muni trains run through VNMDR SUD; including those along Market Street, Mission Street, Van Ness Avenue, and Eleventh Street. To mitigate potential impacts to these Muni lines, the proposed amendments encourage the creation of a Bus Rapid Transit lanes, transit lanes, transit preemption/prioritization signaling, and other transit improvements.

The proposed amendment would support an increase in the residential population of the area, which would increase trips originating and/or terminating in the neighborhood. The high concentration of new residential development, easy access to jobs, service and transit, and pedestrian improvements indicates that VNMDR SUD residents would make a greater share of trips without the use of the automobile, lessening the impacts of new residents on the overburdening of streets and neighborhood parking.

The Market and Octavia Plan policies support a transportation strategy that builds on the existing transit and pedestrian infrastructure when appropriate. Existing neighborhood parking is protected by policies that shift demand, manage existing and future supply, and encourage higher utilization through innovative transit such as car sharing.

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 amendment would not adversely affect the industrial or service sectors. The existing industrial and service businesses in the plan area are currently in the SoMa West neighborhood. These businesses would not be displaced by commercial office development. Due to its proximity to the downtown, the Plan envisions transforming this area into a vibrant new mixed-use residential neighborhood, providing much needed housing, a full range of new services and vibrant streets and public spaces. A portion of the original Market and Octavia study area included a portion of the Mission District that included repair and service sector uses, these blocks, south of Division Street, have been removed from the Market and Octavia Area Plan. Other than the SoMa West area, the proposed amendments do not make major changes to the allowable uses in the plan area.

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

The proposed amendment would not adversely affect preparedness against injury and loss of life in an earthquake and would comply with applicable safety standards. New residential buildings would be subject to the City's Building Code, Fire Code and other applicable safety standards.

7. That landmarks and historic buildings be preserved.

The proposed amendments would not have a negative effect on the preservation of landmarks and historic buildings. The Market and Octavia Area Plan calls for the protection of existing landmarks and historic buildings. A complete historic survey of the plan area will ensure that no historic resources are in contest with the Plan. The plan strengthens protection for historic resources and potential historic districts.

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

The proposed amendments would have a positive effect on parks and open space, and would not adversely affect existing open spaces or their access to sunlight and vistas. The proposed amendments include a series of open space improvements: McCoppin Park near the freeway touchdown, a neighborhood park on Brady Street, and the conversion of sidewalks and alleys to open space amenities. The Market and Octavia Plan details concepts and strategies for living sidewalks and alleyways and identifies numerous opportunities for these types of improvements within the plan area.

Individual buildings reviewed according to procedures described in Planning Code Section 295 are evaluated to identify the impacts of projects and buildings. Project permits can't be approved if the impacts are found to be significant.

The Market and Octavia planning process built on existing General Plan policies. Analysis of applicable General Plan Objectives and Policies has determined that the proposed action is consistent with the General Plan as it is proposed to be amended. The proposed actions offer a compelling articulation and implementation of many of the concepts outlined in the General Plan, especially the Air Quality, Urban Design, Transportation Element, Commerce and Industry, Recreation and Open Space, and Arts Elements. New Area Plan policies and zoning controls articulate these directive policies with specific consideration for the neighborhood conditions of the Market and Octavia Plan Area. Below are specific policies and objectives that support the proposed action.

NOTE: General Plan Elements are in CAPITAL ITALICS
General Plan Objectives are in CAPITAL LETTERS
General Plan Policies are in Arial standard font
Key Policies and Objectives are **Bolded**

RESIDENCE – 1990

OBJECTIVE 1 (Modified objective 1 OF 1990 RESIDENCE ELEMENT)

TO PROVIDE NEW HOUSING, ESPECIALLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT GROWTH DEMAND.

OBJECTIVE 6: TO IMPROVE THE CITYWIDE AFFORDABLE HOUSING DELIVERY SYSTEM

OBJECTIVE 7: TO INCREASE LAND AND IMPROVE BUILDING RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING

Policy 7.3: Grant density bonuses for construction of affordable or senior housing

OBJECTIVE 8: EXPAND THE FINANCIAL RESOURCES AVAILABLE FOR PERMANENTLY AFFORDABLE HOUSING.

Policy 8.2: Create new sources of revenue for permanently affordable housing

OBJECTIVE 12: TO PROVIDE A QUALITY LIVING ENVIRONMENT

HOUSING ELEMENT - 2004

OBJECTIVE 1

TO PROVIDE NEW HOUSING, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING, IN APPROPRIATE LOCATIONS WHICH MEETS IDENTIFIED HOUSING NEEDS AND TAKES INTO ACCOUNT THE DEMAND FOR AFFORDABLE HOUSING CREATED BY EMPLOYMENT DEMAND.

OBJECTIVE 4
SUPPORT AFFORDABLE HOUSING PRODUCTION BY INCREASING SITE
AVAILABILITY AND CAPACITY

OBJECTIVE 5
INCREASE THE EFFECTIVENESS AND EFFICIENCY OF THE CITY'S AFFORDABLE
HOUSING PRODUCTION SYSTEM.

OBJECTIVE 7
EXPAND THE FINANCIAL RESOURCES AVAILABLE FOR PERMANENTLY
AFFORDABLE HOUSING.

OBJECTIVE 11
IN INCREASING THE SUPPLY OF HOUSING, PURSUE PLACE MAKING AND
NEIGHBORHOOD BUILDING PRINCIPLES AND PRACTICES TO MAINTAIN SAN
FRANCISCO'S DESIRABLE URBAN FABRIC AND ENHANCE LIVABILITY IN ALL
NEIGHBORHOODS.

URBAN DESIGN ELEMENT

OBJECTIVE 1: EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO
THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A
MEANS OF ORIENTATION.

POLICY 1.6 Make centers of activity more prominent through design of street features
and by other means.

POLICY 1.8 Increase the visibility of major destination areas and other points for
orientation.

POLICY 2.6 Respect the character of older development nearby in the design of new
buildings.

OBJECTIVE 4: IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO
INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

POLICY 4.11 Make use of street space and other unused public areas for recreation.

TRANSPORTATION ELEMENT

Policy 1.2 Ensure the safety and comfort of pedestrians throughout the city.

Policy 1.3 Give priority to public transit and other alternatives to the private
automobile as the means of meeting San Francisco's transportation needs,
particularly those of commuters.

Policy 1.6 Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

OBJECTIVE 3: MAINTAIN AND ENHANCE SAN FRANCISCO'S POSITION AS A REGIONAL DESTINATION WITHOUT INDUCING A GREATER VOLUME OF THROUGH AUTOMOBILE TRAFFIC.

OBJECTIVE 4: MAINTAIN AND ENHANCE SAN FRANCISCO'S POSITION AS THE HUB OF A REGIONAL, CITY-CENTERED TRANSIT SYSTEM.

OBJECTIVE 11: ESTABLISH PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

OBJECTIVE 14: DEVELOP AND IMPLEMENT A PLAN FOR OPERATIONAL CHANGES AND LAND USE POLICIES THAT WILL MAINTAIN MOBILITY AND SAFETY DESPITE A RISE IN TRAVEL DEMAND THAT COULD OTHERWISE RESULT IN SYSTEM CAPACITY DEFICIENCIES.

POLICY 14.1 Reduce road congestion on arterials through the implementation of traffic control strategies, such as signal-light synchronization and turn controls, that improve vehicular flow without impeding movement for pedestrians and bicyclists.

POLICY 14.2 Ensure that traffic signals are timed and phased to emphasize transit, pedestrian, and bicycle traffic as part of a balanced multi-modal transportation system.

POLICY 14.3 Improve transit operation by implementing strategies that facilitate and prioritize transit vehicle movement and loading.

POLICY 14.4 Reduce congestion by encouraging alternatives to the single occupant auto through the reservation of right-of-way and enhancement of other facilities dedicated to multiple modes of transportation.

POLICY 14.7 Encourage the use of transit and other alternative modes of travel to the private automobile through the positioning of building entrances and the convenient location of support facilities that prioritizes access from these modes.

OBJECTIVE 15: ENCOURAGE ALTERNATIVES TO THE AUTOMOBILE AND REDUCED TRAFFIC LEVELS ON RESIDENTIAL STREETS THAT SUFFER FROM EXCESSIVE TRAFFIC THROUGH THE MANAGEMENT OF TRANSPORTATION SYSTEMS AND FACILITIES.

POLICY 15.1 Discourage excessive automobile traffic on residential streets by incorporating traffic-calming treatments.

Such treatments may include signalization and signage changes that favor other modes of transportation, widened sidewalks, landscape strips, bicycle lanes or transit stops, bicycle-and-transit friendly speed bumps, or reduced traffic speeds.

POLICY 15.2 Consider partial closure of certain residential streets to automobile traffic where the nature and level of automobile traffic impairs livability and safety, provided that there is an abundance of alternative routes such that the closure will not create undue congestion on parallel streets.

POLICY 18.2 Design streets for a level of traffic that serves, but will not cause a detrimental impact on adjacent land uses.

POLICY 20.2 Reduce, relocate or prohibit automobile facility features on transit preferential streets, such as driveways and loading docks, to avoid traffic conflicts and automobile congestion.

OBJECTIVE 23: IMPROVE THE CITY'S PEDESTRIAN CIRCULATION SYSTEM TO PROVIDE FOR EFFICIENT, PLEASANT, AND SAFE MOVEMENT.

OBJECTIVE 24: IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

OBJECTIVE 26: CONSIDER THE SIDEWALK AREA AS AN IMPORTANT ELEMENT IN THE CITYWIDE OPEN SPACE SYSTEM.

OBJECTIVE 27: ENSURE THAT BICYCLES CAN BE USED SAFELY AND CONVENIENTLY AS A PRIMARY MEANS OF TRANSPORTATION AS WELL AS FOR RECREATIONAL PURPOSES.

OBJECTIVE 30: ENSURE THAT THE PROVISION OF NEW OR ENLARGED PARKING FACILITIES DOES NOT ADVERSELY AFFECT THE LIVABILITY AND DESIRABILITY OF THE CITY AND ITS VARIOUS NEIGHBORHOODS.
COMMERCE AND INDUSTRY ELEMENT

POLICY 1.1 Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

POLICY 7.1 Promote San Francisco, particularly the civic center, as a location for local, regional, state and federal governmental functions.

RECREATION AND OPEN SPACE ELEMENT

Policy 2.1 Provide an adequate total quantity and equitable distribution of public open spaces throughout the City.

Policy 2.7 Acquire adequate open space for public use.

Policy 2.9 Maintain and expand the urban forest.

Policy 2.12 Expand community garden opportunities throughout the City.

Policy 4.6 Assure the provision of adequate public open space to serve new residential development.

Policy 4.7 Provide open space to serve neighborhood commercial districts.

ARTS ELEMENT

POLICY 1.1 Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

NOW, THEREFORE BE IT RESOLVED, That pursuant to Planning Code Section 302 (b), the Planning Commission wishes to adopt amendments to the Planning Code, making changes to standards from those currently established by the Planning Code; including the addition of Section 249.33 which establishes the Van Ness and Market Downtown Residential Special Use District (VNMDR SUD). The amendments contain proposals for changes to standards from those currently established by the Planning Code by creating the Van Ness and Market Downtown Residential Special Use District; including an additional affordable housing contribution in the Van Ness and Market Downtown Residential Special Use District.

AND BE IT FURTHER RESOLVED that the Planning Commission intends that this decision complies with conditions of resolution for a new affordable housing requirement as described in Planning Commission resolutions 17406, 17407, 17408, 17409, 17410, and 17411, as follows:

“**AND BE IT FURTHER RESOLVED**, that an additional affordability requirement should be levied on parcels in the Plan Area where rezoning has increased the feasibility for a greater contribution toward affordable housing. An economic sensitivity analysis is underway to determine the appropriate level of the extra inclusionary requirement. This new requirement, as described above, is integral to the Plan, including General Plan, Planning Code and Zoning Controls. The Planning Commission intends that its adoption of the Plan and its accompanying documents be effective only after a new affordable housing requirement as described herein is also adopted by the Commission, enacted by the Board of Supervisors, and becomes effective.

AND BE IT FURTHER RESOLVED, the Planning Commission directs Staff to prepare a specific program for additional affordable housing requirement in areas where increased financial feasibility permits it. This program shall be presented to the Commission for action within three months of the date of this Resolution.”

The Planning Commission intends that the Board of Supervisors will move forward with deliberation and adoption of the Market and Octavia Plan as adopted on April 5th, by the Commission, including the General Plan amendments. of this legislation by the Planning Commission and the Board of Supervisors will trigger the effective date for the Market and Octavia Plan.

As this action fulfills the requirements of Section 4 of the Planning Code Ordinance adopted by the Planning Commission on April 5th by resolution 17409, the Planning Commission recommends that the board delete Section 4 from the ordinance amending the Planning Code.

I hereby certify that the foregoing Resolution was **ADOPTED** by the City Planning Commission on July 12, 2007.

Linda Avery
Commission Secretary

AYES: Commissioners Alexander, Antonini, S. Lee, W. Lee, and Sugaya

NOES: Commissioners Moore, and Olague

ABSENT: None

ADOPTED: July 12, 2007

FILE NO.

ORDINANCE NO.

[Planning Code Amendments to implement the Van Ness and Market Downtown Residential Special Use District.]

Ordinance amending the San Francisco Planning Code to implement the Market and Octavia Area Plan of the General Plan by adding Section 249.33 to establish the Van Ness and Market Downtown Residential Special Use District (VNMDR-SUD); and adopting environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Note: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strikethrough italics Times New Roman*~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) Under Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. 17460 recommending the approval of this Planning Code Amendment, and incorporates such reasons by this reference thereto. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. _____.

(b) Under Planning Code Section 101.1, the Board of Supervisors finds that this ordinance is consistent with the Priority Policies of Planning Code Section 101.1(b) of the Planning Code and with the General Plan as proposed to be amended in companion legislation and hereby adopts the findings of the Planning Commission, as set forth in Planning Commission Resolution No. 17460, and incorporates said findings by this reference thereto.

1 (c) In accordance with the actions contemplated herein, this Board adopted Motion
2 No. 17407, concerning findings pursuant to the California Environmental Quality Act
3 (California Public Resources Code sections 21000 et seq.). A copy of said Motion is on file
4 with the Clerk of the Board of Supervisors in File No. _____ and is incorporated by
5 reference herein.

6 (d) This ordinance duplicates and adds to Section 249.33 of Planning Code Text
7 Amendments approved on April 5, 2007 by the Planning Commission and recommended for
8 adoption to the Board of Supervisors in Planning Commission Motion No. 17409_. It is the
9 intention of the Planning Commission and the Board of Supervisors that the proposed Section
10 249.33 in this ordinance would replace in its entirety the Section 249.33 included in the
11 ordinance attached to Motion No. 17409__.

12 Section 2. The San Francisco Planning Code is hereby amended by adding new
13 Section 249.33, to read as follows.

14 **SEC. 249.33 VAN NESS & MARKET DOWNTOWN RESIDENTIAL SPECIAL USE DISTRICT**

15
16 (a) Purpose. There shall be a Van Ness & Market Downtown Residential Special Use District,
17 which is comprised of the parcels zoned C-3-G in the Market Octavia Better Neighborhoods Plan area,
18 and whose boundaries are designated on Sectional Map No. 2SU and 7SU of the Zoning Map of the
19 City and County of San Francisco. This district is generally comprised of parcels focused at the
20 intersections of Van Ness Avenue at Market Street and South Van Ness Avenue at Mission Street, along
21 with parcels on both sides of Market and Mission Streets between 10th and 12th Streets. This district is
22 intended to be a transit-oriented, high-density, mixed-use neighborhood with a significant residential
23 presence. This area is encouraged to transition from largely a back-office and warehouse support
24 function to downtown into a more cohesive downtown residential district, and serves as a transition
25

1 zone to the lower scale residential and neighborhood commercial areas to the west of the C-3. A
2 notable amount of large citywide commercial and office activity will remain in the area, including
3 government offices supporting the Civic Center and City Hall. This area was initially identified in the
4 Downtown Plan of the General Plan as an area to encourage housing adjacent to the downtown. As
5 part of the city's Better Neighborhoods Program, this concept was fully articulated in the Market and
6 Octavia Area Plan, and is described therein.

7 (b) Use Controls.

8 (1) Non-residential uses. For newly-constructed buildings or additions which exceed 20 percent
9 or more of an existing structure's gross floor area, non-residential uses are not permitted above the 4th
10 story, and at least two occupied square feet of residential use shall be provided for each occupied
11 square foot of non-residential use. In order to accommodate local government office uses near City
12 Hall, publicly-owned or leased buildings or lots are exempted from the requirements of this subsection.

13 (2) Residential Density. There shall be no density limit for residential uses by lot area, but by
14 the applicable requirements and limitations elsewhere in this Code, including but not limited to height,
15 bulk, setbacks, open space, and exposure, as well as by the Market & Octavia Area Plan Fundamental
16 Principals for Design, other applicable design guidelines, applicable elements and area plans of the
17 General Plan, and design review by the Planning Department. The limitations of Section 215 shall not
18 apply.

19 (3) Residential Affordable Housing Program. All projects in this district shall be subject to all
20 the terms of Section 315 and following of the Residential Inclusionary Affordable Housing Program.
21 Notwithstanding the foregoing, projects within the Van Ness and Market Downtown Residential
22 Special Use District shall at a minimum fulfill the requirements to the levels specified in this section.
23 Should Section 315 require greater contributions to the affordable housing program, those
24 requirements shall supercede this section. Proposed exceptions to these requirements due to hardships
25

1 associated with construction type, specifically heights above 120 feet, are not applicable in this
2 Special Use District because parcels are receiving an up zoning through increased density and
3 benefits through the general transformation of the district to a transit oriented neighborhood with a
4 mixed use character. Requirements and administration of this program shall follow the conditions
5 outlined in Section 315 of the Planning Code unless otherwise specified in this section.

6 (A) On site housing requirements and benefits. For projects that choose to fulfill the
7 requirements of Section 315 through the provision of onsite housing, the Planning Department shall
8 require that 15% of all units constructed on the project site shall be affordable to qualifying
9 households so that a project applicant must construct .15 times the total number of units produced in
10 the principal project beginning with the construction of the fifth unit. If the total number of units is not
11 a whole number, the project applicant shall round up to the nearest whole number for any portion of
12 .5 or above.

13 (B) Compliance through in-lieu fees. Projects in the Van Ness and Market Special Use
14 District may choose to fulfill no more than fifty percent (50%) of the requirements of Section 315 and
15 following through the payment of in-lieu fees as provided in Section 315.6.

16 (C) Compliance through off-site housing development. For projects that choose to fulfill the
17 requirements of Section 315 through the provision of off-site housing, the Planning Department shall
18 require that 20% of all units constructed on the project site shall be affordable to qualifying households
19 so that a project applicant must construct .20 times the total number of units produced in the principal
20 project beginning with the construction of the fifth unit. If the total number of units is not a whole
21 number, the project applicant shall round up to the nearest whole number for any portion of .5 or
22 above.

23 (4) Open Space Provider. The off-site open space permitted by this Section may be provided
24 individually by the project sponsor or jointly by the project sponsor and other project sponsors.
25

1 provided that each square foot of jointly developed open space may count toward only one sponsor's
2 requirement. With the approval of the Planning Commission, a public or private agency may develop
3 and maintain the open space, provided that (i) the project sponsor or sponsors pay for the cost of
4 development of the number of square feet the project sponsor is required to provide, (ii) provision
5 satisfactory to the Commission is made for the continued maintenance of the open space for the actual
6 lifetime of the building giving rise to the open space requirement, and (iii) the Commission finds that
7 there is reasonable assurance that the open space to be developed by such agency will be developed
8 and open for use by the time the building, the open space requirement of which is being met by the
9 payment, is ready for occupancy.

10 (A) Off-site provision of required open space. Up to 40 percent of usable open space required
11 by Sections 135 and 138 may be provided off-site if it is within the SUD or within 900 feet of the project
12 site and meets the standards described below for publicly accessible open space described below.

13 (B) Publicly-Accessible Open Space Standards.

14 (C) Open space must be of one or more of the following types:

15 (i) An unenclosed park or garden at street grade or following the natural topography, including
16 improvements to hillsides or other unimproved public areas according to the Market & Octavia Area
17 Plan;

18 (ii) An unenclosed plaza at street grade, with seating areas and landscaping and no more than
19 10 percent of the floor area devoted to food or beverage service;

20 (iii) An unenclosed pedestrian pathway that meets the minimum standards described in Section
21 827(g)(3)(A)-(E);

22 (iv) A terrace or roof garden with landscaping;

1 (v) Streetscape improvements with landscaping and pedestrian amenities that result in
2 additional space beyond the pre-existing sidewalk width and conform to the Market & Octavia Area
3 Plan, such as sidewalk widening or building setbacks; and

4 (vi) Streetscape improvements with landscaping and pedestrian amenities on alleyways from
5 building face to building face, beyond basic street tree planting or street lighting as otherwise required
6 by this Code, in accordance with the Market & Octavia Area Plan.

7 (D) Open space must meet the following standards:

8 (i) Be in such locations and provide such ingress and egress as will make the area convenient,
9 safe, secure and easily accessible to the general public;

10 (ii) Be appropriately landscaped;

11 (iii) Be protected from uncomfortable winds;

12 (iv) Incorporate ample seating and, if appropriate, access to limited amounts of food and
13 beverage service, which will enhance public use of the area;

14 (v) Be well signed and accessible to the public during daylight hours;

15 (vi) Be well lighted if the area is of the type requiring artificial illumination;

16 (vii) Be designed to enhance user safety and security;

17 (viii) Be of sufficient size to be attractive and practical for its intended use; and

18 (ix) Have access to drinking water and toilets if feasible.

19 (E) Maintenance. Open spaces shall be maintained at no public expense, except as might be
20 provided for by any community facilities district that may be formed. The owner of the property on
21 which the open space is located shall maintain it by keeping the area clean and free of litter and
22 keeping in a healthy state any plant material that is provided. Conditions intended to assure continued
23 maintenance of the open space for the actual lifetime of the building giving rise to the open space
24 requirement may be imposed in accordance with the provisions of Section 309.1.
25

1 (F) Informational Plaque. Prior to issuance of a permit of occupancy, a plaque of no less than
2 24 inches by 36 inches in size shall be placed in a publicly conspicuous location outside the building at
3 street level, or at the site of any publicly-accessible open space, identifying said open space feature and
4 its location, stating the right of the public to use the space and the hours of use, describing its principal
5 required features (e.g., number of seats, availability of food service) and stating the name and address
6 of the owner or owner's agent responsible for maintenance.

7 (G) The Zoning Administrator shall have authority to require a property owner to hold
8 harmless the City and County of San Francisco, its officers, agents and employees, from any damage or
9 injury caused by the design, construction or maintenance of open space, and to require the owner or
10 owners or subsequent owner or owners of the property to be solely liable for any damage or loss
11 occasioned by any act or neglect in respect to the design, construction or maintenance of the open
12 space.

13 (5) Lot coverage. The rear yard requirements of Section 134 shall not apply. Lot coverage is
14 limited to 80 percent at all residential levels except on levels in which all residential units face onto a
15 public right-of-way. The unbuilt portion of the lot shall be open to the sky except for those obstructions
16 permitted in yards per Section 136(c). Exceptions to the 20 percent open area may be granted pursuant
17 to the procedures of Section 309 for conversions of existing non-residential structures where it is
18 determined that provision of 20 percent open area would require partial demolition of the existing non-
19 residential structure.

20 (6) Floor Area Ratio.

21 (A) The maximum FAR allowed, except as allowed in this Section, shall be that described in
22 Section 123(C), provided that it shall not be greater than 9:1. The definition of Gross Floor Area shall
23 be that in Section 102.9 as of the date of approval of this Ordinance, and shall include all residential
24 uses. The provisions of Section 124(g) shall not apply in this special use district.

1 (B) Floor Area Bonus Permitted for Public Improvements or In-lieu Contributions to the Van
2 Ness and Market Neighborhood Infrastructure Fund and In lieu Contributions to the Citywide
3 Affordable Housing Fund.

4 (i) The gross floor area of a structure or structures on a lot may exceed the maximum ratio
5 described in Section 123(c) through participation in the Van Ness and Market Affordable Housing and
6 Neighborhood Infrastructure Program, according to the procedures described below in subsection
7 (b)(7).

8 (ii) Projects are eligible to apply bonus FAR only for that floor area above the maximum ratio
9 permitted in Section 123(c) and provided that the project has acquired Transferable Development
10 Rights from a Transfer Lot or Lots pursuant to the provisions of Sections 127-128 for that increment of
11 FAR above the base FAR limit in Section 124 up to the maximum FAR described in Section 123(c). If a
12 project sponsor demonstrates that the potential supply of TDR from all remaining potential eligible
13 Transfer Lots as provided in Section 128, is insufficient to satisfy the demand produced by a specific
14 project, the Planning Commission may permit the substitution of the Van Ness and Market Affordable
15 Housing and Neighborhood Infrastructure Program described in subsection (b)(6) and (7) for that
16 square footage that would otherwise require TDR.

17 (7) Van Ness and Market Affordable Housing and Neighborhood Infrastructure Program.

18 (A) Purpose and Findings.

19 (i) Affordable Housing: The Van Ness and Market Residential SUD enables the creation of a very
20 dense residential neighborhood through significant increases in development potential. This increase in
21 development potential permits an increase in market rate housing development. As described in Section
22 315.2 affordable housing is a priority for San Francisco and additional demand for affordable housing
23 is closely correlated to the development of new market rate housing. At the direction of the Board of
24 Supervisors and as part of a larger analysis of development impact fees in the City, the City contracted
25

1 with Keyser Marston Associates to prepare a nexus analysis in support of the Inclusionary Housing
2 Program, or an analysis of the impact of development of market rate housing on affordable housing
3 supply and demand.

4 The City's current position is that the City's Inclusionary Housing Program including the in lieu
5 fee provision which is offered as an alternative to building units within market rate projects, is not
6 subject to the requirements of the Mitigation Fee Act, Government Code Sections 66000 et seq. While
7 the City does not expect to alter its position on this matter, due to past legislative actions supporting
8 such a study, the Citywide study being undertaken to conduct nexus studies in other areas, and a
9 general interest in determining whether the Inclusionary Program can be supported by a nexus type
10 analysis as an additional support measure, the City contracted to undertake the preparation of a nexus
11 analysis.

12 The final study can be found in Board of Supervisors File No. _____ and is incorporated
13 by reference herein. The Board of Supervisors has reviewed the study and staff analysis and report of
14 the study and, on that basis finds that the study supports the current inclusionary housing requirements
15 as specified in this Section 249.33 combined with this Affordable Housing FAR Bonus Program.
16 Specifically, the Board finds that the nexus study: identifies the purpose of the fee to mitigate impacts
17 on the demand for affordable housing in the City; identifies the use to which the fee is to be put as
18 being to increase the City's affordable housing supply; and establishes a reasonable relationship
19 between the use of the fee for affordable housing and the need for affordable housing and the
20 construction of new market rate housing. Moreover, the Board finds that the current inclusionary
21 requirements combined with the Affordable Housing FAR Bonus Program are less than the cost of
22 mitigation and do not include the costs of remedying any existing deficiencies. The Board also finds
23 that the study establishes that the current inclusionary requirements combined with the Affordable
24 Housing FAR Bonus Program do not duplicate other city requirements or fees.
25

1 Moreover, according to the study undertaken by Seifel Consulting at the direction of the
2 Planning Department, increased development potential in the Van Ness and Market Downtown
3 Residential Special Use district through the increased FAR allowance enables an increased
4 contribution to the Citywide Affordable Housing Fund without discouraging the development of new
5 market rate housing. A copy of said study is on file with the Clerk of the Board of Supervisors in File
6 No. _____.

7 (ii) Neighborhood Infrastructure. The Van Ness & Market Residential SUD enables the creation of
8 a very dense residential neighborhood in an area built for back-office and industrial uses. Projects that
9 seek the FAR bonus above the maximum cap would introduce a very high localized density in an area
10 generally devoid of necessary public infrastructure and amenities, as described in the Market
11 & Octavia Area Plan. While envisioned in the Plan, such projects would create localized levels of
12 demand for open space, streetscape improvements, community facilities and public transit above and
13 beyond the levels both existing in the area today and funded by the Market & Octavia Community
14 Improvements Fee. Such projects also entail construction of relatively taller or bulkier structures in a
15 concentrated area, increasing the need for offsetting open space for relief from the physical presence of
16 larger buildings. Additionally, the FAR bonus provisions herein are intended to provide an economic
17 incentive for project sponsors to provide public infrastructure and amenities that improve the quality of
18 life in the area. The bonus allowance is calibrated based on the cost of responding to the intensified
19 demand for public infrastructure generated by increased densities available through the FAR density
20 bonus program.

21 (iii) Public Improvements. The public improvements acceptable in exchange for granting the
22 FAR bonus, and that would be necessary to serve the additional population created by the increased
23 density, are listed below. All public improvements shall be consistent with the Market & Octavia Area
24 Plan.

1 (a) Open Space Acquisition and Improvement: Brady Park (as described in the Market &
2 Octavia Area Plan), or other open space of comparable size and performance. Open space shall be
3 dedicated for public ownership or permanent easement for unfettered public access and improved for
4 public use, including landscaping, seating, lighting, and other amenities.

5 (b) Streetscape and Pedestrian Improvements: Streetscape improvements within the Special Use
6 District as described in the Market & Octavia Area Plan, including Van Ness and South Van Ness
7 Avenues, Gough, Mission, McCoppin, Otis, Oak, Fell, 11th and 12th Streets, along with adjacent
8 alleys. Improvements include sidewalk widening, landscaping and trees, lighting, seating and other
9 street furniture (e.g. newsracks, kiosks, bicycle racks), signage, transit stop and subway station
10 enhancements (e.g. shelters, signage, boarding platforms), roadway and sidewalk paving, and public
11 art.

12 (c) Affordable Housing. The type of affordable housing needed in San Francisco is documented
13 in the City's Consolidated Plan and the Residence Element of the General Plan. New affordable rental
14 housing and ownership housing affordable to households earning less than the median income is
15 greatly needed in San Francisco.

16 (B) The Van Ness and Market Affordable Housing and Neighborhood Infrastructure Program
17 ("Program") is hereby established and shall be implemented through In-Kind public improvements,
18 participation in Community Facilities (Mello-Roos) District, or in-lieu payment into the Van Ness and
19 Market Neighborhood Infrastructure Fund ("Fund") or in lieu payments to the Citywide Affordable
20 Housing Fund.

21 (i) The Program shall be administered by the Board of Supervisors, except for the in lieu fee
22 payments to the Citywide Affordable Housing Fund which shall be administered as provided for in
23 Section 315 et seq.

24 (C) Value, Form, and Timing of Contribution to the Program.
25

1 (i) The total value of the contribution ("contribution") to the Program shall be equal to \$15 per
2 additional gross square foot above a site FAR of 9:1. The contribution must be made or the fee paid
3 prior to issuance by the Department of Building Inspection of the first site or building permit for the
4 subject project. Except as provided in Section 7(C)(vii), \$0 must be paid as a fee to the Citywide
5 Affordable Housing Fund as described below in subsection (7)(C)(v); and \$15 or its equivalent must
6 be paid or contributed to the Van Ness and Market Neighborhood Infrastructure Program in one of the
7 ways described below in subsections (ii) through (iii) including any form of any combination, either in
8 whole or in part, of an In-Kind Agreement to provide neighborhood improvements, In-Lieu Payment to
9 the City Treasurer, or a Community Facilities District Agreement to participate in a Mello-Roos
10 Community Facilities District. The fee may be adjusted in accordance with the procedures described in
11 Section 326.3(d) or 315.6(b)3.

12 (ii) In-Kind Improvements. The Planning Commission may allow the provision of In-Kind
13 Improvements, through the approval of an In-Kind Agreement in accordance with the procedures
14 outlined in Section 326.3(e).

15 (iii) In-Lieu Payment. Because the total cost of the individual public improvements (e.g. a public
16 park or a streetscape project) may be greater than the proportional contribution to the Program or the
17 need created by any one project, and because it may be infeasible or impractical to make a fractional
18 public improvement (e.g. acquisition of a fraction of a park) it is necessary to allow direct payments, at
19 the rate described in subsection (7)(C)(i) above, in-lieu of providing In-Kind improvements, as a form
20 of contribution, either in whole or in part, to the Program. Such payment shall be made to the City
21 Treasurer for deposit in the Van Ness and Market Neighborhood Infrastructure Fund. Upon payment of
22 the In-Lieu Payment in full to the Treasurer, the Treasurer shall issue a certification that the credit has
23 been paid.

1 (iv) Community Facilities District. The Planning Commission may allow the participation in a
2 Community Facilities (Mello-Roos) District through the procedures described in Section 326.3 (f) and
3 (g).

4 (v) Zero dollars per square foot (\$0) except as provided in 7(C)(vii) shall be deposited in the
5 special fund maintained by the Controller called the Citywide Affordable Housing Fund as established
6 by section 313.12. Except as specifically provided in this Section, collection, management,
7 enforcement, and expenditure of funds shall conform to the requirements related to in lieu fees in
8 Planning Code Sections 315 et seq., specifically including, but not limited to, the provisions of Section
9 315.6.

10
11 (vi) The sponsor shall present Treasurer certification of In-Lieu Payment, a signed In-Kind
12 Agreement and/or Community Facilities District Agreement totaling the full value of the contribution to
13 the Planning Department and Department of Building Inspection prior to the issuance by DBI of the
14 first site or building permit for the project. A failure of the Treasurer, DBI or the Planning Department
15 to give any notice under this Section shall not relieve a sponsor from compliance with this Section.

16 (vii) At the close of the fiscal year in which the Market and Octavia Community Improvements
17 Program has generated funding for no less than \$211 million for expenditure in the plan area,
18 including revenue generated through Planning Code Section 249.33 and Section 326 fee payment, in-
19 kind and community facility district contributions; public grants; San Francisco general funds;
20 assessment districts; and other sources which contribute to the overall programming; all future funds
21 generated through this section, 249.33 of the Planning Code shall be redirected one-hundred (100)
22 percent to the Citywide Affordable Housing Fund.

23 (D) There is hereby established a separate fund set aside for a special purpose entitled the Van
24 Ness and Market Neighborhood Infrastructure Fund ("Fund"). All monies collected by the Treasurer
25

1 pursuant to subsection (7)(C)(i) above shall be deposited in this fund to be maintained by the
2 Controller. The receipts of the Fund are hereby appropriated in accordance with law to be used solely
3 to fund public infrastructure subject to the following conditions:

4 (i) All monies deposited in the Fund, plus accrued interest, shall be used solely to design,
5 engineer, acquire and develop neighborhood open spaces and streetscape improvements that result in
6 new publicly-accessible facilities within the Van Ness and Market Special Use District or the area
7 bounded by 10th Street, Howard Street, South Van Ness Avenue, the northeastern line of the Central
8 Freeway, Market Street, Franklin Street, Hayes Street, and Polk Street. These improvements shall be
9 consistent with the Market and Octavia Area Plan of the General Plan and any Plan that is approved
10 by the Board of Supervisors in the future for the area covered by this SUD, except that monies from the
11 Fund may be used by the Planning Commission to commission studies to revise the fee pursuant to
12 subsection (7)(C)(i) above, or to commission landscape, architectural or other planning, design and
13 engineering services in support of the proposed public improvements.

14 (ii) No portion of the Fund may be used, by way of loan or otherwise, to pay any administrative,
15 general overhead, or similar expense of any public entity.

16 (iii) The Controller's Office shall file an annual report with the Board of Supervisors beginning
17 one year after the effective date of this ordinance, which report shall set forth the amount of money
18 collected in the Fund. Monies in the Fund shall be appropriated by the Board of Supervisors and
19 administered by the Director of Planning.

20 (iv) Expenditure of funds shall be coordinated with appropriate city agencies as detailed in
21 Section 326.6 (d) and (e).

1 (v) The Director of Planning shall have the authority to prescribe rules and regulations
2 governing the Fund, which are consistent with this ordinance. The Director of Planning shall make
3 recommendations to the Board regarding allocation of funds.

4
5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: Audrey Williams Pearson
8 Audrey Williams Pearson
9 Deputy City Attorney