[Interim Zoning Controls – Conversion of Retail to Non-Retail Sales and Service Use in the C-3-R Zoning District]

Resolution imposing interim zoning controls for 18 months to require a Conditional Use Permit, information to be submitted, and specified findings for any conversion of Retail Use to Non-Retail Sales and Service Use in the C-3-R Downtown Retail Zoning District, and providing an exception to these controls; and affirming the Planning Department’s determination under the California Environmental Quality Act.

WHEREAS, Planning Code, Section 306.7 authorizes the Board of Supervisors to impose interim zoning controls to allow time for the orderly completion of a planning study and for the adoption of appropriate legislation, which are necessary to ensure that the legislative scheme that may be ultimately adopted is not undermined during the planning and legislative process by the approval or issuance of permits authorizing changes of use that could conflict with that scheme; and

WHEREAS, The Planning Department and Commission have been studying ongoing trends and changes in the retail market in San Francisco and in the C-3-R Downtown Retail Zoning District, and considering potential zoning amendments or policy approaches to respond to any changes in that retail market; and

WHEREAS, In response to applications submitted to convert existing retail space to office use within the C-3-R Downtown Retail Zoning District, the Planning Commission held hearings to discuss retail to office conversions in the C-3-R Downtown Retail Zoning District on March 16, 2017, and February 22, 2018; and
WHEREAS, At the March 16, 2017, the Office of Economic and Workforce Development (OEWD) presented analysis of trends within the C-3-R Downtown Retail Zoning District as compared to the rest of the City and to regional and national retail trends; and

WHEREAS, At the March 16, 2017, hearing, Planning Department staff outlined three potential approaches to reviewing retail to office conversions in the C-3-R Zoning District, which included continuing to review projects seeking upper level retail to office space conversions on a case-by-case basis; adopting a policy that provides specific additional criteria that projects must meet in order for approval; or initiating changes to the Planning Code to codify the criteria that projects must meet in order for approval; and

WHEREAS, Since the March 16, 2017, Planning Commission hearing, OEWD has conducted additional research and analysis related to lease rates, vacancies, and tenant space sizes specific to the C-3-R Downtown Retail Zoning District and found, in pertinent part, that Union Square retail lease rates have surpassed Citywide lease rates, and that Union Square has higher lease rates than any part of the City in all classes of office; and

WHEREAS, On February 22, 2018, the Planning Commission held another public hearing on retail to office space conversion within the C-3-R Downtown Retail Zoning District, at which OEWD cited dramatic changes in the retail landscape over the past 40 years in San Francisco and ongoing major restructuring in the national retail industry; and

WHEREAS, OEWD also found that although San Francisco’s retail economy has somewhat slowed, San Francisco’s many competitive advantages for retail and restaurants have nevertheless insulated the City’s retail from national trends, including the City’s strong local economy, significant regional and international tourism, and granular approach to zoning controls aimed at enhancing the City’s existing retail corridors and zoning districts; and

WHEREAS, The Union Square area, most of which is zoned C-3-R, is a world-class retail destination that draws both tourists and Bay Area residents with its combination of
walkable shopping and dining, excellent transit access, and top-tier hospitality, and a 2016 study showed that Union Square merchants generate approximately 37% of San Francisco’s sales tax in General Consumer Goods, and 15% of all City sales tax dollars; and

WHEREAS, It is necessary to consider the effects of conversions from Retail to Office use in the C-3-R Downtown Retail Zoning District that may occur while the City considers permanent controls and guidance for such conversions, to assure that the City does not lose the opportunity to preserve neighborhoods and areas of mixed uses and the existing character of such neighborhoods and areas, and to continue to develop and conserve the economic vitality of the City; and

WHEREAS, The Planning Department has determined that the actions contemplated in this Resolution comply with the California Environmental Quality Act (California Public Resources Code, Sections 21000 et seq.), which determination is on file with the Clerk of the Board of Supervisors in File No. 180243 and is incorporated herein by reference, and the Board affirms this determination; now therefore be it

RESOLVED, That any proposed conversion of Retail Sales and Service use to Non-Retail Sales and Service use in the C-3-R Downtown Retail Zoning district shall require conditional use authorization while these Interim Controls are in effect; and, be it

FURTHER RESOLVED, That an applicant proposing any such conversion shall provide information and data to the Planning Department about current Retail and Non-Retail use vacancy rates in the C-3-R Downtown Retail Zoning District; current (as of the time of the application) rental rates for Retail and Non-Retail Sales and Service uses based on knowledge of existing lease rental rates and advertised rental rates for both Retail and/or Non-Retail use categories and their sub-categories as set forth in Section 102 of the Planning Code; a list of other properties in the C-3-R Downtown Retail Zoning District either owned or managed by the applicant, and available information about comparable and relevant rental
rates, the principally permitted use(s) of such properties, any vacancies at those other properties, and, to the extent that vacancies exist, any evidence that the property owner or manager has advertised a lease at that property for an existing principally permitted use or any other use, including any publicly advertised terms of that rental; and any other relevant neighborhood development, economic or demand changes in the C-3-R Downtown Retail Zoning District; and, be it

FURTHER RESOLVED, In addition to the findings required under Planning Code, Section 303, the City must make the following findings in order to approve any conditional use permit authorizing conversion of Retail use to Non-Retail Sales and Service use in the C-3-R Downtown Retail Zoning District: (1) the change in use from Retail to Non-Retail Sales and Service will not detract from the area's primary function as an internationally renowned destination for comparison shopper retailing and direct consumer services; (2) a Retail or other principally-permitted use is not feasible at the site proposed for conversion, based on evidence that the applicant has openly advertised and solicited rental applications for a Retail or principally-permitted use at the location for a period of at least 18 months and no suitable lessees submitted an application or other response indicating a desire to use the space for a principally-permitted use; (3) any application for a proposed Non-Retail Sales and Service use of the site includes specific calculation of the gross floor area of the proposed Non-Retail use and how any necessary independent and non-public access would be provided to the proposed Non-Retail use; (4) there is a lack of availability of property that is principally permitted for Non-Retail Sales and Service use citywide, including prospective availability of property principally permitted for Non-Retail uses based on five- and ten-year estimates of anticipated new construction, such that the supply of Office space is so constrained as to warrant the applied-for conversion; and (5) whether rental rates for Non-Retail uses are
comparable to rental rates for Retail uses within the C-3-R Downtown Retail Zoning District;

and be it

FURTHER RESOLVED, These interim controls shall not apply to any site within the C-3-R zoning district on the south side of, and south of, Market Street, nor to any site that has already obtained conditional use authorization from the Planning Commission for conversion of Retail uses to Non-Retail uses in the C-3-R Downtown Retail Zoning District on or prior to May 18, 2018; and be it

FURTHER RESOLVED, These Interim Controls shall remain in effect for a period of 18 months from the date of imposition, unless they are extended or otherwise amended in accordance with the provisions of Planning Code Section 306.7, or until the adoption of permanent legislation regulating conversions from Retail use to Non-Retail Sales and Service (Office) use in the C-3-R Downtown Retail Zoning District, whichever first occurs.

APPROVED AS TO FORM:

DENNIS J. HERRERA,
City Attorney

By KATE H. STACY
Deputy City Attorney
Resolution imposing interim zoning controls for 18 months to require a Conditional Use Permit, information to be submitted, and specified findings for any conversion of Retail Use to Non-Retail Sales and Service Use in the C-3-R (Downtown Retail) Zoning District; and affirming the Planning Department’s determination under the California Environmental Quality Act.

May 14, 2018 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

May 14, 2018 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

May 22, 2018 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

May 22, 2018 Board of Supervisors - ADOPTED AS AMENDED
Ayes: 11 - Breed, Cohen, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Stefani, Tang and Yee

File No. 180243

I hereby certify that the foregoing Resolution was ADOPTED AS AMENDED on 5/22/2018 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Unsigned
Mark E. Farrell
Mayor

6/1/18
Date Approved
I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

[Signature]
Angela Calvillo
Clerk of the Board

6/1/2018
Date

File No.
180243