

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: February 5, 2025
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 250069
Planning Code - Conversion of Residential Hotel Rooms to Tourist Hotel Rooms at 447 Bush Street

- California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
 - Ordinance / Resolution
 - Ballot Measure

- Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
 - General Plan Planning Code, Section 101.1 Planning Code, Section 302

- Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)

- General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)

- Historic Preservation Commission
 - Landmark (*Planning Code, Section 1004.3*)
 - Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
 - Mills Act Contract (*Government Code, Section 50280*)
 - Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

1 [Planning Code - Conversion of Residential Hotel Rooms to Tourist Hotel Rooms at 447 Bush
Street]

2
3 **Ordinance amending the Planning Code to principally permit up to 51 Tourist Hotel**
4 **rooms at Assessor's Parcel Block No. 0287, Lot No. 020, also known as 447 Bush**
5 **Street; exempting 447 Bush Street from the requirement to obtain a conditional use**
6 **authorization to convert 38 Residential Hotel rooms to Tourist Hotel rooms; waiving**
7 **development impact fees and requirements for the conversion of the 38 rooms;**
8 **providing that the conversion of the 38 rooms shall occur simultaneously with the**
9 **application of the Residential Hotel Unit Conversion and Demolition Ordinance to 27**
10 **Group Housing rooms at 412-422 Hayes Street and seven Group Housing Rooms at**
11 **319-321 Ivy Street, Assessor's Parcel Block No. 0808, Lot No. 007; providing that the**
12 **Department of Building Inspection shall issue certificates of use to reflect the changes**
13 **in use of all the aforementioned properties and waiving associated fees; providing that**
14 **the Ordinance is conditioned on enactment of the ordinance approving settlement of**
15 **claims in *Hotel Des Arts, LLC v. City and County of San Francisco et al.*; affirming the**
16 **Planning Department's determination under the California Environmental Quality Act;**
17 **making findings of consistency with the General Plan, and the eight priority policies of**
18 **Planning Code, Section 101.1; and making findings of public necessity, convenience,**
19 **and welfare under Planning Code, Section 302.**

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

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

1 Section 1. Environmental and Planning Code Findings.

2 (a) The Planning Department has determined that the actions contemplated in this
3 ordinance comply with the California Environmental Quality Act (California Public Resources
4 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
5 Supervisors in File No. _____ and is incorporated herein by reference. The Board
6 affirms this determination.

7 (b) On _____, the Planning Commission, in Resolution No. _____,
8 recommended the Planning Code amendments in this ordinance for approval and adopted
9 findings that the actions contemplated in this ordinance are consistent, on balance, with the
10 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
11 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
12 Board of Supervisors in File No. _____, and is incorporated herein by reference.

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

17
18 Section 2. General Findings.

19 (a) The Residential Hotel Unit Conversion and Demolition Ordinance was enacted
20 in 1990 as Chapter 41 of the Administrative Code ("Chapter 41"). The stated purpose of
21 Chapter 41 is "to benefit the general public by minimizing adverse impact on the housing
22 supply and on displaced low-income, elderly, and disabled persons resulting from the loss of
23 residential hotel units through their conversion and demolition." (Administrative Code Section
24 41.2.)

1 (b) Section 41.3 of the Administrative Code, subsections (a)-(h), includes the
2 following verbatim findings:

3 (1) There is a severe shortage of decent, safe, sanitary and affordable rental
4 housing in the City and County of San Francisco and this shortage affects most severely the
5 elderly, the disabled and low-income persons.

6 (2) The people of the City and County of San Francisco, cognizant of the
7 housing shortage of San Francisco, on November 4, 1980, adopted a declaration of policy to
8 increase the city's housing supply by 20,000 units.

9 (3) Many of the elderly, disabled and low-income persons and households
10 reside in residential hotel units.

11 (4) A study prepared by the Department of City Planning estimated that there
12 were only 26,884 residential hotel units in the City in December of 1979, a decrease of 6,098
13 such units from 1975. Since enactment of this Chapter, residential hotel units have continued
14 to decrease, at a slower rate: in 1981, there were 20,466 residential hotel units as defined by
15 this Chapter; in 1988, there were 18,723 residential hotel units, a decrease of 1,743 over a
16 period of 7 years. The decrease is caused by vacation, conversion or demolition of residential
17 hotel units. Continued vacation, conversion or demolition of residential hotel units will
18 aggravate the existing shortage of affordable, safe and sanitary housing in the City and
19 County of San Francisco.

20 (5) As a result of the removal of residential hotel units from the rental housing
21 market, a housing emergency exists within the City and County of San Francisco for its
22 elderly, disabled and low-income households.

23 (6) Residential hotel units are endangered housing resources and must be
24 protected.

25

1 (7) The Board of Supervisors and the Mayor of the City and County of San
2 Francisco recognized this housing emergency and enacted an ordinance which established a
3 moratorium on the demolition or conversion of residential hotel units to any other use. The
4 moratorium ordinance became effective on November 21, 1979.

5 (8) The conversion of residential hotel units affects those persons who are
6 least able to cope with displacement in San Francisco's housing market.

7 (c) Pursuant to Sections 41.12 and 41.13 of the Administrative Code, the owner or
8 operator of a residential hotel within Chapter 41's scope may apply to convert or demolish one
9 or more residential units by providing for a one-to-one replacement of the unit(s) by one of the
10 methods set forth in Section 41.13.

11 (d) Since its enactment in 1990, the Residential Hotel Unit Conversion and
12 Demolition Ordinance has been amended from time to time to ensure that its provisions
13 continue to align with its original intent (1) to preserve affordable rental housing for elderly,
14 disabled, and low-income persons and households who are least able to cope with
15 displacement and (2) to require a one-for-one replacement of these residential units if the
16 hotel owner or operator is allowed to convert or demolish them.

17
18
19 Section 3. Article 2 of the Planning Code is hereby amended by revising Section
20 210.2, to read as follows:

21
22 **SEC. 210.2. C-3 DISTRICTS: DOWNTOWN COMMERCIAL.**

23 * * * *

24 **Table 210.2**

25 **ZONING CONTROL TABLE FOR C-3 DISTRICTS**

Zoning Category	§ References	C-3-O	C-3-O(SD)	C-3-R	C-3-G	C-3-S
* * * *						
NON-RESIDENTIAL STANDARDS AND USES						
* * * *						
Sales and Service Category						
Retail Sales and Service Uses*	§§ 102, 202.2(a)	P	P	P	P	P
Hotel	§ 102	C	C	<u>C (12)</u>	C	C
* * * *						

* Not listed below.

* * * *

(12) A total of up to 51 Tourist Hotel rooms are Principally Permitted on Block 0287 Lot 020, subject to the provisions of Ordinance No. _____, in Board File No. 250069.

Section 4. Planning Code Waivers for 447 Bush Street; Certificates of Use for 447 Bush Street, 412-422 Hayes Street, and 319-321 Ivy Street and Associated Fee Waivers.

(a) The conversion to Tourist Hotel Use of 38 Residential Hotel Rooms subject to Administrative Code Chapter 41 and located at 447 Bush Street is hereby exempt from

(1) the requirements of Planning Code Section 317; and

(2) any development impact fee or development impact requirement imposed by Article 4 of the Planning Code.

(b) The change of use of the 38 Residential Hotel Rooms at 447 Bush Street shall occur simultaneously with, and subject to, the application of Administrative Code Chapter 41 to the 27 Group Housing Rooms located at 412-422 Hayes Street and seven Group Housing Rooms at 319-321 Ivy Street, Assessor's Parcel Block 0808, Lot 007, as referenced in and in accordance with the companion ordinance described in Section 6 of this ordinance. The Department of Building Inspection shall issue Certificates of Use to 447 Bush Street, 412-422

1 Hayes Street, and 319-321 Ivy Street reflecting these changes of use. Any permit or plan
2 review fees incurred in the issuance of the Certificates of Use are hereby waived.

3
4 Section 5. Limited Effect of Ordinance.

5 This ordinance:

6 (a) shall have no retroactive effect;

7 (b) does not forgive or waive enforcement of any violations of applicable law, including
8 but not limited to the Planning Code, Building Code, or Administrative Code, that may have
9 occurred at 447 Bush Street, 412-422 Hayes Street, or 319-321 Ivy Street prior to or that may
10 occur on or after the ordinance's effective date; and

11 (c) does not exempt any future changes of use at 447 Bush Street, 412-422 Hayes
12 Street or 319-321 Ivy Street from the requirements of the Planning Code, Building Code, or
13 Administrative Code, including but not limited to Planning Code Section 317 and Article 4 of
14 the Planning Code.

15
16 Section 6. Effective Date; Dependence on Enactment of Companion Settlement
17 Ordinance.

18 (a) This ordinance shall become effective 30 days after enactment, or upon the
19 enactment of the companion settlement ordinance referenced in subsection (b), whichever
20 occurs later. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

23 (b) This ordinance is a companion ordinance to the ordinance in Board File
24 No. 250068, which approves the settlement of claims in *Hotel Des Arts, LLC v. City and*
25

1 County of San Francisco et al. (Northern District of California, Case No. 3:23-cv-02933) filed
2 on June 14, 2023. If that ordinance is not enacted, this ordinance shall be null and void.

3
4 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
5 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
6 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
7 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
8 additions, and Board amendment deletions in accordance with the “Note” that appears under
9 the official title of the ordinance.

10
11 APPROVED AS TO FORM:
12 DAVID CHIU, City Attorney

13 By: /s/ Kristen A. Jensen
14 KRISTEN A. JENSEN
15 Deputy City Attorney

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LEGISLATIVE DIGEST

[Planning Code - Conversion of Residential Hotel Rooms to Tourist Hotel Rooms at 447 Bush Street]

Ordinance amending the Planning Code to principally permit up to 51 Tourist Hotel rooms at Block 0287, Lot 020, also known as 447 Bush Street; exempting 447 Bush Street from the requirement to obtain a conditional use authorization to convert 38 Residential Hotel rooms to Tourist Hotel rooms; waiving development impact fees and requirements for the conversion of the 38 rooms; providing that the conversion of the 38 rooms shall occur simultaneously with the application of the Residential Hotel Unit Conversion and Demolition Ordinance to 27 Group Housing rooms at 412-422 Hayes Street and seven Group Housing Rooms at 319-321 Ivy Street, Assessor's Parcel Block 0808, Lot 007; providing that the Department of Building Inspection shall issue certificates of use to reflect the changes in use of all the aforementioned properties and waiving associated fees; providing that the ordinance is conditioned on enactment of the ordinance approving settlement of claims in *Hotel Des Arts, LLC v. City and County of San Francisco et al.*; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Existing Law

The Residential Hotel Unit Conversion and Demolition Ordinance ("HCO") is codified in Chapter 41 of the Administrative Code. Effective in April 2025, units that are designated as "Residential Units" under the HCO must be rented for periods of 30 days or more.

Block 0287, Lot 020 (447 Bush) is located in the C-3-R (Downtown Retail) District. In the C-3-R District, tourist hotels are conditionally permitted. (Planning Code Section 210.2.)

Planning Code Section 317 requires a conditional use authorization to remove or change the use of a residential unit.

Article 4 of the Planning Code imposes impact fees and related requirements on certain changes in use of a property.

Section 106A.1.12 of the Building Code requires a permit and fees for a change in occupancy or use of a building.

Amendments to Current Law

This ordinance amends Planning Code Section 210.2 to principally permit up to 51 tourist hotel rooms at Block 0287, Lot 020 (447 Bush). In an uncodified section, the ordinance waives the required conditional use authorization for the conversion of 38 residential hotel rooms under the HCO into tourist hotel rooms at 447 Bush. The ordinance waives any associated development impact fees and development impact requirements on the conversion of the 38 rooms.

The ordinance also provides that the conversion of the 38 rooms at 447 Bush shall occur simultaneously with the application of the HCO to 27 group housing rooms at 412-422 Hayes Street and seven group housing rooms at 319-321 Ivy Street (both addresses share the same Assessor's Parcel Block 0808, Lot 007). The Department of Building Inspection shall issue certificates of use to reflect the changes in use of all the aforementioned properties. The ordinance waives any associated fees in the issuance of the certificates of use.

Background Information

This ordinance is a companion ordinance to the ordinance in Board File No. _____, which approves the settlement of claims in *Hotel Des Arts, LLC v. City and County of San Francisco et al.* (Northern District of California, Case No. 3:23-cv-02933) filed on June 14, 2023. That lawsuit challenges 2023 amendments to the HCO (Board File No. 220815, Ord. No. 36-23) that define Tourist or Transient use as a stay of less than 30 days and establish a two-year amortization period. Material terms of the settlement require the City to permit the conversion of the existing 38 residential hotel rooms at 447 Bush Street to tourist hotel rooms under Administrative Code Chapter 41 in exchange for conversion of 27 group housing rooms and associated amenities at 412-422 Hayes and seven group housing rooms and associated amenities at 319-321 Ivy Street to Residential Hotel Rooms subject to the HCO.

This ordinance is conditioned on enactment of the companion ordinance approving settlement of claims in *Hotel Des Arts, LLC v. City and County of San Francisco et al.*