

BOARD of SUPERVISORS



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MEMORANDUM

Date: April 10, 2023
To: Planning Department / Commission
From: Erica Major, Clerk of the Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 230371
Planning and Building Codes - Commercial to Residential Adaptive Reuse and
Downtown Economic Revitalization

- 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 Erica Major at Erica.Major@sfgov.org.

CEQA clearance under the 2022 Housing Element Update Final EIR,
certified by the Planning Commission by Motion No. 21206 on November 17, 2022.

A handwritten signature in black ink, appearing to be "Erica Major".



MEMORANDUM TO FILE

Date: May 3, 2023

To: San Francisco Housing Element 2022 Update Environmental Impact Report File, Planning Case 2019-016230ENV

From: Debra Dwyer, Principal Planner

Re: Amendments to Planning and Building Codes regarding Commercial to Residential Adaptive Reuse and Downtown Economic Revitalization Board File 230371

Introduction

The San Francisco Planning Commission certified the Housing Element 2022 Update final environmental impact report (Housing Element EIR) on November 17, 2022 by motion no. 21206. On December 15, 2022 the Planning Commission recommended the Housing Element 2022 Update (2022 Housing Element) by resolution no. 21221, and also initiated amendments to the San Francisco General Plan by resolution no. 21222. On January 31, 2023 the San Francisco Board of Supervisors adopted the 2022 Housing Element by Ordinance 10-23, and then Mayor Breed signed it.

Mayor Breed and Board President Peskin introduced legislation on April 4, 2023 that would modify the Planning and Building Codes (Board File 230371) to allow for Commercial to Residential Adaptive Reuse and Downtown Economic Revitalization. Amended legislation was substituted on April 12, 2023. This memo addresses the California Environmental Quality Act (CEQA) review for the current legislation.

Summary

This ordinance would incentivize the conversion of Downtown non-residential buildings into residential units by exempting eligible projects from certain Planning Code standards. It also would enact local code changes to support existing businesses and attract new businesses Downtown and streamline approvals to draw consumers back to Downtown. This ordinance would amend the Planning and Building Codes to achieve six policy outcomes:

Planning Code Amendments

- Facilitate Residential Uses Downtown
- Economically Revitalize Downtown
- Streamline Signage Permitting in C-3 Districts and Citywide
- Streamline Historic Preservation Review for certain qualifying scopes of work (described below)
- Provide Alternatives to On-Site Open Space Requirements in Certain C-3 Districts

Building Code Amendments

- Facilitate Residential Adaptive Reuse in the Building Code

The Planning Department reviewed and considered the proposed amendments. Amendments to streamline historic preservation review of administrative certificates of appropriateness and minor permits to alter for awnings (Qualifying Scopes of Work) within Article 10 and 11 districts would alter the department's process for review and approval of these projects. Also, amendments would streamline review of sign permits citywide including within the C-3 districts to allow for the repair and rehabilitation of certain neon signs and exemption of existing business signs in the C-3 zoning district from certain zoning controls. Temporary "pop-up" non-residential uses in vacant spaces for up to one year would be permitted in certain C, NC, NCT, or Mixed-Use Districts. The changes in Planning Department review process would not result in physical environmental impacts. In addition, enabling temporary uses within vacant commercial spaces would not result in significant environmental impacts.

To economically revitalize Downtown, the amendments would add uses to the uses principally permitted in Downtown (C-3 and C-2 districts) such as Flexible Workspace (a type of Retail Sales and Service use), accessory storage, temporary pop-up activations, Intermediate Length Occupancy, trade schools among others. The uses identified would not be of greater intensity than uses already permitted in the C districts. Therefore, the amendments described above would not result in significant environmental impacts greater than those anticipated in the Housing Element 2022 Update EIR because the physical environmental impacts of the operation of these proposed uses are within the range of existing effects of the existing C district uses. Construction impacts would be within the range of those disclosed and mitigated in the Housing Element 2022 Update EIR.

Conversion of existing commercial buildings to residential use within the C districts is permitted under current Planning Code provisions. The proposed amendments would incentivize projects to adapt non-residential buildings in the C districts to residential mixed-use buildings. To facilitate these conversions, eligible projects would be exempt from requirements related to rear yard, open space, streetscape improvements, dwelling unit exposure, bike parking, dwelling unit mix, and Intermediate Length Occupancy controls. The projects anticipated in this program would modify existing buildings Downtown, provided eligibility criteria are met. State Density Bonus projects would not qualify for this program. Expansion of the existing building envelope would be limited to not more than 20 percent of the existing building's Gross Floor Area and not more than one vertical story. The hearing requirements under Planning Code Section 309 would not apply to eligible projects under the adaptive reuse program if the project sponsor only seeks exceptions listed in Section 210.5 (d). In addition, projects would be allowed to pay an in-lieu fee instead of providing on-site privately owned public open space in certain C-3 districts.

Housing Element EIR, pp. 6-8 and 6-9, under the East Side Alternative provides a discussion of the potential environmental impacts of policies, objectives, and actions if existing development patterns on the east side of the city including Downtown were to continue. The East Side Alternative would result in development of the same number of housing units in the city in 2050 as under the 2022 Housing Element, but the development would be focused on the east side of the city. Table 6-2 on EIR pp. 6-22 to 6-41 provides a comparison of the environmental effects of the East Side Alternative to the 2022 Housing Element. Most environmental impacts disclosed in the EIR for development under the East Side Alternative would be similar to those under the 2022 Housing Element. The discussion below focuses on the significant and unavoidable and the significant and unavoidable with mitigation impacts identified for development under the 2022 Housing Element and under the East Side Alternative. Impacts where the impact level of significance differs between these two scenarios are also discussed.

In the Housing Element EIR under both the 2022 Housing Element and the East Side Alternative scenarios, the following topics would result in significant and unavoidable impacts with mitigation: Built-environment Historic Resources (plan and cumulative level), Loading (plan and cumulative level), Construction noise (plan and cumulative level), and Operational noise (plan level). As disclosed in the Housing Element EIR, these impacts would be greater under the East Side Alternative due to the existing density of residential and commercial development on the east side of the city as well as project site and transportation network constraints (transit delay, loading, construction). The east side of the city is forecast to have a greater number of historic architectural resources by 2050, and therefore, a greater number of architectural resources would be adversely affected, even with mitigation.

While plan-level wind and shadow impacts would remain significant and unavoidable under both the 2022 Housing Element and the East Side Alternative, the impacts would be reduced for development under this alternative compared to under the Housing Element. For wind, this is due to the sheltering effect of existing tall buildings Downtown. For shadow, under the East Side Alternative, infill development would occur in areas with dense development that already casts shadows of varying lengths on parks and open space Downtown. Also, there would be less shadow on parks and open spaces on the west side of the city under the East Side Alternative.

The East Side Alternative would reduce the significant and unavoidable with mitigation impacts under the Housing Element to less than significant for wastewater treatment or stormwater drainage facilities, wastewater treatment capacity, and plan level criteria air pollutants. This is due to focusing development on the east side of the city where the Southeast Water Pollution Control Plant has adequate capacity. In addition, the criteria air pollutant impact of this alternative would be less than significant because the growth in VMT would be less than the growth in service population.

The Housing Element EIR disclosed similar significant and unavoidable impacts for which there is no feasible mitigation under both the Housing Element and the East Side Alternative for these topics: Construction-related potentially hazardous conditions, accessibility, or substantially delay public transit (plan and cumulative) and water supply.

Draft EIR commenters suggested the reuse of commercial buildings as residential. The Responses to Comments (RTC) provides a response to this issue. On RTC pp. 4-28 to 4-32, the RTC states that while the 2022 Housing Element does not include specific policies to adapt commercial buildings downtown to residential use, the 2022 Housing Element would not preclude such projects. In addition, the response acknowledges that physical impacts related to conversion of existing commercial buildings to residential use in Downtown are within the analysis of the East Side Alternative. Further, the impacts of development incentivized by the proposed code amendments, including construction-related impacts, would be much less compared to those disclosed for the East Side Alternative as the eligibility criteria would limit the size of additions to existing buildings.

Conclusion

For the reasons described above, the code amendments for the Commercial to Residential Adaptive Reuse and Downtown Economic Revitalization would not cause new significant impacts or result in a substantial increase in the severity of the impacts identified in the Housing Element EIR, and no new or revised mitigation measures would be required. (See Public Resources Code section 21166; CEQA Guidelines sections 15162 and 15163.) The proposed ordinance would not result in significant physical effects beyond those analyzed and disclosed in the Housing Element 2022 Update EIR.