

1 [Interim Zoning Controls – Conversion of Retail to Non-Retail Sales and Service Use in the C-
2 3-R Zoning District]

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

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

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

20 WHEREAS, In response to applications submitted to convert existing retail space to
21 office use within the C-3-R Downtown Retail Zoning District, the Planning Commission held
22 hearings to discuss retail to office conversions in the C-3-R Downtown Retail Zoning District
23 on March 16, 2017, and February 22, 2018; and

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1 WHEREAS, At the March 16, 2017, the Office of Economic and Workforce
2 Development (OEWD) presented analysis of trends within the C-3-R Downtown Retail Zoning
3 District as compared to the rest of the City and to regional and national retail trends; and

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

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

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

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

24 WHEREAS, The Union Square area, most of which is zoned C-3-R, is a world-class
25 retail destination that draws both tourists and Bay Area residents with its combination of

1 walkable shopping and dining, excellent transit access, and top-tier hospitality, and a 2016
2 study showed that Union Square merchants generate approximately 37% of San Francisco's
3 sales tax in General Consumer Goods, and 15% of all City sales tax dollars; and

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

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

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

18 FURTHER RESOLVED, That an applicant proposing any such conversion shall
19 provide information and data to the Planning Department about current Retail and Non-Retail
20 use vacancy rates in the C-3-R Downtown Retail Zoning District; current (as of the time of the
21 application) rental rates for Retail and Non-Retail Sales and Service uses based on
22 knowledge of existing lease rental rates and advertised rental rates for both Retail and/or
23 Non-Retail use categories and their sub-categories as set forth in Section 102 of the Planning
24 Code; a list of other properties in the C-3-R Downtown Retail Zoning District either owned or
25 managed by the applicant, and available information about comparable and relevant rental

1 rates, the principally permitted use(s) of such properties, any vacancies at those other
2 properties, and, to the extent that vacancies exist, any evidence that the property owner or
3 manager has advertised a lease at that property for an existing principally permitted use or
4 any other use, including any publicly advertised terms of that rental; and any other relevant
5 neighborhood development, economic or demand changes in the C-3-R Downtown Retail
6 Zoning District; and, be it

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

3 FURTHER RESOLVED, These interim controls shall not apply to any site within the C-
4 3-R zoning district on the south side of, and south of, Market Street, nor to any site that has
5 already obtained conditional use authorization from the Planning Commission for conversion
6 of Retail uses to Non-Retail uses in the C-3-R Downtown Retail Zoning District on or prior to
7 May 18, 2018; and be it

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

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14 APPROVED AS TO FORM:

15 DENNIS J. HERRERA,
16 City Attorney

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18 By _____
19 KATE H. STACY
Deputy City Attorney

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