



May 12, 2023

Ms. Angela Calvillo, Clerk
Honorable Supervisor Dorsey
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Transmittal of Planning Department Case Number 2023-003166PCA:
Development Impact Fees for Commercial to Residential Adaptive Reuse Projects
Board File No. 230372

Planning Commission Recommendation: Approval with Modifications

Dear Ms. Calvillo and Supervisor Dorsey

On May 4, 2023, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Supervisor Dorsey that would amend the Planning Code to exempt eligible “Commercial to Residential Adaptive Reuse Projects” from development impact fees, except for inclusionary housing requirements. At the hearing the Planning Commission recommended approval with modifications. The Commission’s proposed modifications were as follows:

Recommendation 1: Modify the western geographic boundary of the program to include all parcels zoned C-3 or C-2 east of Franklin/ 13th St., instead of east Van Ness Avenue.

Recommendation 2: Amend the eligibility criteria in Section 210.5 to allow all eligible adaptive reuse projects to take advantage of development impact fee waivers and to allow additions of up to 1/3 of the existing Gross Floor Area (GFA) instead of 20% GFA and maximum of 1 story.

Recommendation 3: Add language to require the Planning Commission to hold a hearing to evaluate the Commercial to Residential Adaptive Reuse Program prior to the program expiring on December 31, 2028.

Recommendation 4: Clarify how existing POPOs (Privately-owned public open spaces) would be treated for Commercial to Residential Adaptive Reuse projects.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc: Austin Yang, Deputy City Attorney
Madison Tam, Aide to Supervisor Dorsey
Erica Major, Office of the Clerk of the Board

Attachments :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21320

HEARING DATE: MAY 4, 2023

Project Name: Development Impact Fees for Commercial to Residential Adaptive Reuse Projects
Case Number: 2023-003166PCA [Board File No. 230372]
Initiated by: Supervisor Dorsey / Introduced April 4, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
Audrey.merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO EXEMPT ELIGIBLE COMMERCIAL TO RESIDENTIAL ADAPTIVE REUSE PROJECTS FROM DEVELOPMENT IMPACT FEES, WITH THE EXCEPTION OF INCLUSIONARY HOUSING REQUIREMENTS; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on April 4, 2023 Supervisor Dorsey introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 230372, which would amend the Planning Code to exempt eligible “Commercial to Residential Adaptive Reuse Projects” from development impact fees, with the exception of inclusionary housing requirements;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 4, 2023; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance. The Commission's proposed recommendation(s) is/are as follows:

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The shift to hybrid work has adversely impacted the City's downtown, with particularly devastating impacts on downtown retail and small business. It has also impacted the vitality of downtown's public spaces, public transportation options, and public safety. This legislation is a small but important part of incentivizing the conversion of non-residential buildings into housing in order to bring more people and uses into downtown San Francisco. If our efforts at reducing constraints for these types of projects are successful, the results will re-activate the downtown core, increase the City's housing stock, and establish a new housing option for all San Franciscans.

Recommendation 1: Modify the western geographic boundary of the program to include all parcels zoned C-3 or C-2 east of Franklin/ 13th St., instead of east Van Ness Avenue. As currently drafted, there are a handful of parcels that would be excluded from the proposed Ordinance, which was not the sponsor's intent. Moving the boundary line two blocks to the west, from Van Ness to Franklin/13th Street, will ensure all intended parcels are included.

Recommendation 2: Amend the eligibility criteria in Section 210.5 to allow all eligible adaptive reuse projects to take advantage of development impact fee waivers and to allow additions of up to 1/3 of the existing Gross Floor Area (GFA) instead of 20% GFA and maximum of 1 story. As currently drafted, to qualify for the development impact fee waivers, a project may include an addition of 20% of Gross Floor Area to an existing building up to a one-story vertical addition. The Department recommends altering the eligibility criteria to remove the limit on one vertical story and to increase the addition from 20% to allow additions of up to 1/3 of the existing Gross Floor Area. This could potentially help support the economic feasibility of projects. The Department additionally recommends allowing projects that exceed the addition of 1/3 of the existing Gross Floor Area to take advantage of the Commercial to Residential Adaptive Reuse Program but subject the portion of the project that *exceeds* 1/3 additional Gross Floor Area to current Planning Code controls (i.e. does not qualify for the development impact fee waivers).

Recommendation 3: Add language to require the Planning Commission to hold a hearing to evaluate the Commercial to Residential Adaptive Reuse Program prior to the program expiring on December 31, 2028. The Planning Commission proposed an amendment to the legislation to add language to Planning Code Section 210.5(f) to state, *"Following January 1, 2027 the Planning Commission shall hold a hearing to evaluate the*

Commercial to Residential Adaptive Reuse Program and make a recommendation to the Board of Supervisors on the Program, including whether to extend the application period beyond December 31, 2028”.

Recommendation 4: Clarify how existing POPOs (Privately-owned public open spaces) would be treated for Commercial to Residential Adaptive Reuse projects. As currently drafted, the legislation does not include language about POPOs which are a requirement for office uses in C-3 zoning districts. POPOS are publicly accessible spaces in forms of plazas, terraces, atriums, small parks, which are provided and maintained by private developers. Staff recommended to the Commission that language should be added to the Planning Code to clarify that a Commercial to Residential Adaptive Reuse project which retains a commercial use above the ground floor would have to retain the existing POPOs, and a Commercial to Residential Adaptive Reuse project which does not retain a commercial use above the ground floor, would not have to retain the existing POPOS.

In the City's FY 12-13 budget, responsibility for providing strategic direction, planning and oversight of early care and education programs was consolidated in the new agency, OECE.

The proposed Ordinance will correct the Planning Code so that it is in line with the City's current practices and adopted budget.

General Plan Compliance

The proposed Ordinance and the Commission's recommended modifications are/is consistent with the following Objectives and Policies of the General Plan:

DOWNTOWN PLAN

OBJECTIVE 5

RETAIN A DIVERSE BASE OF SUPPORT COMMERCIAL ACTIVITY IN AND NEAR DOWNTOWN

POLICY 5.1

Provide space for support commercial activities within the downtown and in adjacent areas.

The proposed Ordinance would expand the types of commercial uses that are permitted downtown to help to economically revitalize downtown.

OBJECTIVE 7

EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

POLICY 7.1

Promote the inclusion of housing in downtown commercial developments.

POLICY 7.2

Facilitate conversion of underused industrial and commercial areas to residential use.

The proposed Ordinance would help facilitate adaptive reuse of commercial buildings to housing by waiving certain planning code requirements for existing buildings.

HOUSING ELEMENT

OBJECTIVE 7

EXPANDING HOUSING CHOICES

POLICY 7.3.4

Study feasibility challenges and support proposals for adaptive re-use of vacant and underutilized commercial office buildings to potentially increase housing and affordable housing opportunities, especially if building types work well for groups that would benefit from their proximity to transit, services, or institutions, such as seniors, teachers, or students.

By removing the burden of many of the City's development impact fees the proposed Ordinance will assist in making these types of projects more financially feasible. If market conditions improve, the reduction in building costs combined with the reduction of fees through this ordinance, and the removal of certain Planning Code requirements through the Mayor's proposed ordinance, could lead to many new housing units in an area of the City that is well-connected to jobs of various skill levels, and numerous public transit options.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

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

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

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

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

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

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

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 Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

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

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

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

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 4, 2023.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin Digitally signed by Jonas P Ionin
Date: 2023.05.10 16:05:45 -0700

AYES: Braun, Diamond, Imperial, Koppel, Moore, Tanner

NOES: None

ABSENT: Ruiz

ADOPTED: May 4, 2023



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: May 4, 2023

90-Day Deadline: July 10, 2023

Project Name: Development Impact Fees for Commercial to Residential Adaptive Reuse Projects
Case Number: 2023-003166PCA [Board File No. 230372]
Initiated by: Supervisor Dorsey / Introduced April 4, 2023
Staff Contact: Audrey Merlone, Legislative Affairs
 Audrey.merlone@sfgov.org, 628-652-7534
Reviewed by: Aaron Starr, Manager of Legislative Affairs
 aaron.starr@sfgov.org, 628-652-7533

Recommendation: Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to exempt eligible “Commercial to Residential Adaptive Reuse Projects” from development impact fees, except for inclusionary housing requirements.

The Way It Is Now:

The City imposes development impact fees on development projects in order to mitigate the impacts caused by new development on public services, infrastructure and facilities. Most development impact fees are established in Article 4 of the Planning Code.

The Way It Would Be:

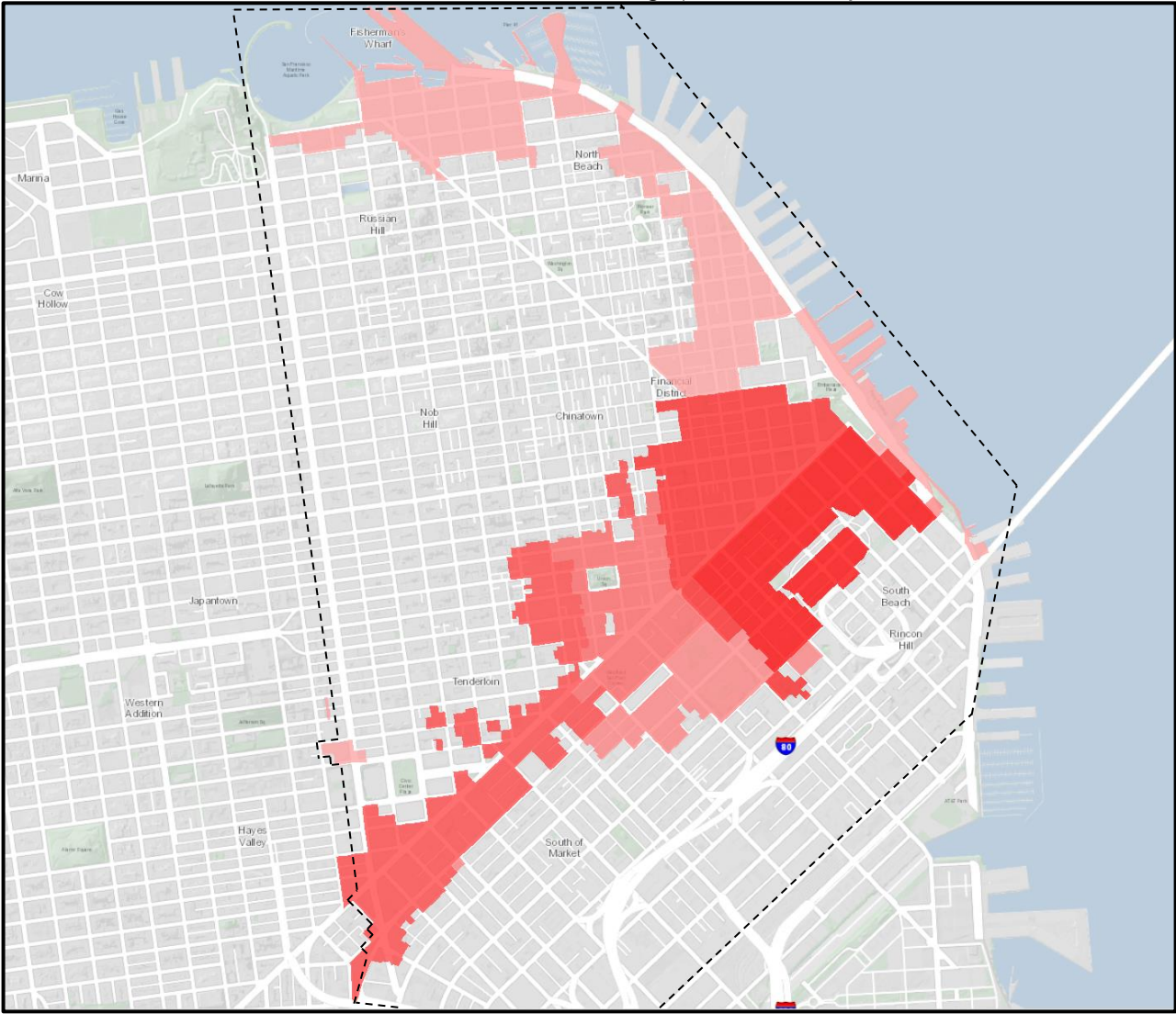
Eligible projects would receive a waiver from *any* development impact fee or development impact requirement contained in Article 4 of the Planning Code, *except that the requirements of Sec. 415 (Inclusionary Housing Requirements) would still apply.* The proposed new Code Sec. 210.5 further describes the eligibility criteria for a “Commercial to Residential Adaptive Reuse Project” as a change of use of any existing GFA from non-residential use to residential use, plus:

- (1) located in a C zoning district that is east of or fronting Van Ness/South Van Ness Avenue and north of Townsend Street;
- (2) does not seek approval under Section 206.5 or 206.6;

- (3) does not expand an existing building's envelope in a manner where the addition to the building envelope represents more than 20% of the existing building's Gross Floor Area; and
- (4) does not add more than one vertical story

The waiver would be limited to impact fees/requirements for the residential Gross Floor Area(GFA) of a Commercial to Residential Adaptive Reuse Project. Impact fees/requirements associated with non-residential uses would not be waived.

Commercial Districts with Geographical Boundary



Background

On April 3, 2023, the Land Use and Transportation Committee heard two presentations on repurposing Commercial real estate for Residential use: one from the Budget and Legislative Analyst (BLA), and one from SPUR/Gensler/ULI/HR&A Advisors. The BLA report identified the increase in office vacancies downtown, the need for more housing citywide, the government and non-governmental constraints that can prevent housing conversion projects, and several policy solutions¹. The SPUR report examined many of the same subject areas as the BLA report and made six key findings². The findings are:

1. Because of their physical characteristics, office buildings in San Francisco are stronger candidates for conversion than office buildings in other cities in North America.
2. Conversion of vacant office buildings could physically accommodate 11,200 housing units in downtown San Francisco, including the central business district, SoMa, Yerba Buena, Mission Bay, and Jackson Square/Northern Waterfront areas.
3. The City's planning and building code requirements represent a major challenge for conversions.
4. Given current economic conditions and development costs, most conversions of underperforming office buildings to housing are not financially feasible.
5. The City's inclusionary housing requirement and impact fees are major barriers to conversion.
6. Case studies from other cities show that incentives are critical to office-to-residential conversions.

Both the BLA and SPUR reports recommended, among other policy solutions, reducing impact fees for adaptive reuse projects.

On April 4, 2023, Mayor Breed, with Supervisor Peskin, introduced an ordinance (Board File No. 230371) with the goal of not only allowing non-residential properties in the City's downtown to convert to Residential, but also to remove many governmental constraints that dissuade this type of development. That proposed ordinance is scheduled to be heard by the Planning Commission on May 4th. The ordinance that is the subject of this report is meant to enhance the conversion program proposed in the mayor's ordinance.

Issues and Considerations

Impact Fees

Like many jurisdictions, San Francisco assesses impact fees on development projects that the City uses to offset the cost of infrastructure, providing public services, or other social costs associated with the new development. The size of these fees varies, based on the project location and scale. While generally carrying a smaller cost than the inclusionary housing requirement, these fees add to project costs and can therefore affect project feasibility, particularly in the downtown area and in other neighborhoods in the eastern portion of the City, where impact

¹ <https://sfbos.org/sites/default/files/BLA.Repurposed%20Commercial%20Property.010623.pdf>

² https://www.spur.org/sites/default/files/2023-03/SPUR_Office-to-Residential_Conversion_in_SF.pdf

fees are generally higher. According to a 2018 analysis by the Turner Center of a range of development fees, including impact fees, the cumulative effect of development fees is to “substantially increase the cost of building housing.”³

The cumulative effect of development fees is to substantially increase the cost of building housing.

The first development impact fee payment is typically due when a project sponsor obtains the first construction permit for their project. During the most recent economic downturn, the City provided the option to delay the first impact fee payment, so that it was due when the developer received its first Certificate of Occupancy. In their study of repurposing commercial real estate for residential use, the Budget and Legislative Analyst’s Office recommended reducing the effect of fees on the feasibility of conversion. To do this the City could delay the collection of development impact fees for certain types of projects, as called for in the draft Housing Element Update. Alternatively, the City could reduce or completely waive development impact fees for projects meeting certain qualifications.

State of the Downtown

San Francisco faces dual problems of a shortage of affordable housing production and high commercial property vacancy rates due to reduced demand, particularly for Downtown office space. The Covid-19 pandemic has had a significant impact on commercial building use and activity levels throughout the City, but particularly downtown. Working remotely for most of the 245,505 office workers that the BLA estimates were working downtown prior to the pandemic has continued even as public health threats have waned. According to many experts, remote work will continue, possibly in the form of hybrid work arrangements with reduced worker attendance at the office. This change in office work patterns has resulted in reduced demand for downtown office space and large increases in commercial real estate vacancy rates. In the greater downtown area, the office sector has experienced a fourfold increase in total vacancy rate between the third quarter of 2019 and the third quarter of 2022.

The reduced presence of office workers has also negatively affected many downtown businesses that previously catered to workers such as restaurants and retail outlets. This has left areas of downtown much less active than they were pre-pandemic. In addition to hurting retail in the downtown, this trend has also impacted the use and activation of public space, transportation, and public safety.

General Plan Compliance & Racial and Social Equity Analysis

San Francisco’s recently certified Housing Element is the first General Plan Element to center on racial and social equity. It includes policies and programs that express the City’s collective vision and values for the future of housing in San Francisco. Objective 7 of the Housing Element is to expand housing choices. The Expanding Housing Choices program area includes various programs that will increase housing choices for residents in a variety of housing types. This program includes rezoning to accommodate Regional Housing Needs Assessment (RHNA) goals, allowing more homes in small and mid-rise multifamily buildings, and support for ADUs in existing

³ https://turnercenter.berkeley.edu/wp-content/uploads/pdfs/Development_Fees_Report_Final_2.pdf

residential buildings. Importantly, it also encourages actions to support additional housing near major transit nodes and jobs centers, such as new housing and conversions of office in downtown.

Removing the burden of many of the City’s development impact fees will make these types of projects more financially feasible.

Policy 7.3.4 of the Housing Element is to: “*Study feasibility challenges and support proposals for adaptive re-use of vacant and underutilized commercial office buildings to potentially increase housing and affordable housing opportunities, especially if building types work well for groups that would benefit from their proximity to transit, services, or institutions, such as seniors, teachers, or students.*” Though not currently deemed to be feasible in part due to factors outside the government’s control (namely high construction costs), removing the burden of development impact fees is an important step to make these types of projects more financially feasible. If market conditions improve, the reduction in building costs combined with the reduction of fees and removing certain Planning Code requirements, could lead to thousands of new housing units in the downtown. Though the proposed Ordinance does not have a direct racial and social equity benefit, increasing the amount of housing will assist in creating more housing choices and opportunities for all residents.

Implementation

The Department has determined that this ordinance will not impact our current implementation procedures.

Recommendation

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department’s proposed recommendations are as follows:

1. Modify the western geographic boundary of the program to include all parcels zoned C-3 or C-2 east of Franklin Street/ 13th Street, instead of east of Van Ness Avenue.
2. Amend the eligibility criteria in Section 210.5 to allow all eligible adaptive reuse projects to take advantage of zoning modifications and to allow additions of up to 1/3 of the existing Gross Floor Area (GFA) instead of 20% GFA and maximum of 1 story.

Basis for Recommendation

The shift to hybrid work has adversely impacted the City’s downtown, with particularly devastating impacts on downtown retail and small business. It has also impacted the vitality of downtown’s public spaces, public transportation options, and public safety. This legislation is a small but important part of incentivizing the conversion of non-residential buildings into housing in order to bring more people and uses into downtown San Francisco. If our efforts at reducing constraints for these types of projects are successful, the results will re-activate the downtown core, increase the City’s housing stock, and establish a new housing option for all San Franciscans.

Recommendation 1: Modify the western geographic boundary of the program to include all parcels zoned C-3 or C-2 east of Franklin/ 13th St., instead of east of Van Ness Avenue. As currently drafted, there are a handful of parcels that would be excluded from the proposed Ordinance, which was not the sponsor's intent. Moving the boundary line two blocks to the west, from Van Ness to Franklin/13th Street, will ensure all intended parcels are included.

Recommendation 2: Amend the eligibility criteria in Section 210.5 to allow all eligible adaptive reuse projects to take advantage of zoning modifications and to allow additions of up to 1/3 of the existing Gross Floor Area (GFA) instead of 20% GFA and maximum of 1 story. As currently drafted, to qualify for the zoning modifications, including waiver of hearings, a project may include an addition of 20% of Gross Floor Area to an existing building up to a one-story vertical addition. The Department recommends altering the eligibility criteria to remove the limit on one vertical story and to increase the addition from 20% to allow additions of up to 1/3 of the existing Gross Floor Area. This could potentially help support the economic feasibility of projects. The Department additionally recommends allowing projects that exceed the addition of 1/3 of the existing Gross Floor Area to take advantage of the Commercial to Residential Adaptive Reuse Program but subject the portion of the project that exceeds 1/3 additional Gross Floor Area to current Planning Code controls (i.e. does not qualify for the zoning modifications under Section 210.5(d)).

Required Commission Action

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.