

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 7/17/2023)

[Planning and Building Codes - Commercial to Residential Adaptive Reuse and Downtown Economic Revitalization]

Ordinance amending the Planning Code to 1) facilitate residential uses Downtown by authorizing the conversion of non-residential uses to residential use in C (Commercial) zoning districts, and exempting such projects from requirements for rear yard, open space, streetscape improvements, dwelling unit exposure, off-street freight loading, curb cuts for vehicular access, bike parking, transportation demand management, dwelling unit mix, and Intermediate Length Occupancy controls, permitting live work units in such project, streamlining administrative approvals for projects in the C-3 zoning district, and modifying the dimensional limits on exemptions to height restrictions for mechanical equipment, elevator, stair, and mechanical penthouses; 2) economically revitalize Downtown by adding Flexible Workspace as a defined use, authorizing large scale retail uses in the C-3 zoning district, allowing window displays in the C-3 zoning district, allowing Flexible Workspace as an active ground floor commercial use along certain street frontages in C-3 zoning districts, allowing accessory storage in any C zoning district, allowing the temporary installation for 60 days of certain signs in the C-3-R district, allowing temporary non-residential uses in vacant spaces for up to one year, including formula retail, reducing density limits for Residential Dwelling Units and Senior Housing in the C-2 zoning districts east of or fronting Franklin Street/13th Street and north of Townsend Street, principally permitting Laboratory, Life Science, Agricultural and Beverage Processing, and Animal Hospitals in C-2 zoning districts, principally permitting Senior Housing, Residential Care Facilities, Outdoor Entertainment, Open Recreation Areas, Animal Hospitals, and Trade Schools in the C-3 zoning district, allowing formula retail as a ground floor use on Market Street, principally permitting office and design professional uses on the second floor and higher in the C-3-R zoning district, and requiring consideration of office vacancy in consideration of granting exceptions in the Transit Center Commercial Special Use District; 3) streamline sign permitting citywide and in the C-3 districts by allowing for the repair and rehabilitation of certain neon signs, and exempting existing business signs in the C-3 zoning district from certain zoning controls; 4) streamline Historic Preservation review of minor permits to alter for awnings, as may be delegated by the Historic Preservation Commission; 5) increase threshold for large projects subject to commercial to residential ratios in the C-3-O district, and provide alternatives to on-site open space in certain C-3 districts by allowing for payment of an in lieu fee as an alternative to providing open space; 6) facilitate residential adaptive reuse by amending the Building Code to add standards for adaptive reuse of non-residential buildings; and 7) principally permit formula retail and waive size limitations for such uses on a portion of Showplace Square Area (555-

9th Street, Assessor's Parcel Block No. 3781, Lot No. 003); 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 pursuant to Planning Code, Section 302

Existing Law

(1) Residential Uses in C Districts

The Planning Code contains development standards for various zoning districts. C-2 (Community Business) and C-3 (Downtown Commercial) districts are collectively referred to as "C districts" or "Commercial Districts". C districts are subject to rear yard setbacks (Section 134), open space (Section 135), streetscape and pedestrian improvements (Section 138.1), off-street loading (Section 152 and 152.1), curb cuts for vehicular access (Section 155(r)), bicycle parking (Sections 155.1 and 155.2), dwelling unit mix (Section 207.7), and dwelling unit exposure requirements (Section 140). The Planning Code also prescribes allowable methods for measuring building heights (Section 260).

Residential dwelling units are principally permitted in the C districts. In the C-2 district, density is regulated based on prescribed ratios (Section 210.1). Senior Housing and Residential Care Facilities are conditionally permitted in C-3 districts (Section 210.2).

Planning Code Section 309 governs approval of permits in the C-3 district. Project sponsors may seek exceptions from certain Planning Code standards through the Section 309 review process. A public hearing is required for projects that result in a net addition of more than 50,000 square feet of gross floor area, include the construction of a new building greater than 75 feet in height or a vertical addition to an existing building that results in a total building height greater than 75 feet, or that require an exception.

Currently "adaptive reuse" is not a defined term in the Planning Code, and the Planning Code generally does not distinguish between the development standards and approval processes that apply to adaptive reuse projects versus ground-up new development.

Live work units are currently not permitted, other than as a Dwelling Unit accessory to other units pursuant to Section 204.4.

(2) Non-Residential Uses in C Districts

In addition to prescribed standards for residential uses, the Planning Code also contains development and use standards for non-Residential uses, including Commercial, Sales and Services, and Entertainment uses. Certain large scale retail uses are conditionally permitted or not permitted at all in the C-3 district (Section 121.6). Formula retail is not a permitted ground-floor use on Market Street in the C-3 district (Section 210.2). Accessory storage uses are not permitted in the C districts (Section 204.3). Laboratory, Life Science, and Agricultural and Beverage Processing are not permitted in C-2 districts (Section 210.1). Animal Hospitals

are conditionally permitted in C-2 districts and some C-3 districts (Sections 210.1). Outdoor Entertainment, Open Recreation Areas, Animal Hospitals, and Trade Schools are not permitted in certain C-3 districts (Section 210.2). The Planning Code also regulates permissible uses on various floors of a building, for example office and design professional uses on the second floor or higher in the C-3-R zoning district.

The Planning Code also regulates window transparency and display requirements in the C-3 zoning district (Section 145.1). It also provides standards for temporary installations (Section 205.1), and temporary, “pop-up” uses (Section 205.2).

Planning Code Section 248 provides that in the Transit Center C-3-O(SD) Commercial Special Use District all new development on lots larger than 15,000 square feet shall include not less than 2 gross square feet of principally or conditionally permitted commercial uses for every 1 gross square foot of dwellings or other housing uses. The Planning Commission may grant exceptions to this requirement pursuant to the procedures in Section 309.

(3) Sign Permitting in C-3 Districts and Citywide

Planning Code Section 604 requires a permit for new signs and certain changes in sign copy, and restricts removal of certain neon signs for routine maintenance and repair.

(4) Historic Preservation Review

Planning Code Section 1005 prescribes the review of permits relating to a designated landmark site or a designated historic district. Section 1005 contains several minor scopes of work that are exempt from Article 10 review. Section 1111 prescribes the review of permits relating to a Significant of Contributory Building or a building within a Conservation District. Section 1111.1 includes several scopes of work that do not require consistency with the Permit to Alter procedures.

(5) Commercial to Residential Use Ratio and Open Space In-Lieu Fee in C-3-O(SD)

Planning Code Section 248 requires a minimum of 2:1 ratio of commercial to residential uses for large projects (currently defined as 15k sq ft). In addition, in lieu of providing privately-owned public open space on-site, a project sponsor in the C-3-O(SD) District may pay a fee of \$1,410 for each square foot of usable open space not provided (Planning Code Section 426). The fee shall be paid into the Transit Center District Open Space Fund.

(6) Alternative Building Code Standards (Building Code)

Currently, the City’s Building Official and Fire Code Official are authorized to consider alternative building standards consistent with Sections 17951 and 19957 of the California Health and Safety Code.

(7) Zoning Controls for 555 9th Street

555 9th Street (Assessor’s Parcel Block No. 3781, Lot 003) is a shopping center that is zoned UMU (Urban Mixed Use). Formula retail is conditionally permitted in the UMU district and uses over certain sizes require a condition use authorization.

Amendments to Current Law

This ordinance would amend the Planning and Building Codes to achieve seven policy outcomes:

- Facilitate Residential Uses Downtown (Planning Code Amendments)
- Economically Revitalize Downtown
- Streamline Signage Permitting in C-3 Districts and Citywide
- Streamline Historic Preservation Review for certain types of work
- Provide Alternatives to On-Site Open Space Requirements in Certain C-3 Districts
- Facilitate Residential Adaptive Reuse in the Building Code (Building Code Amendments)
- Rezone a Portion of the Showplace Square Plan Area to C-2

(1) Facilitate Residential Uses Downtown (Planning Code Amendments) [Section 3 of Ordinance]

To facilitate residential uses Downtown, Section 3 of this ordinance would create a Commercial to Residential Adaptive Reuse program and effect accompanying revisions to underlying zoning controls.

This ordinance would create Planning Code Section 210.5 to facilitate Commercial to Residential Adaptive Reuse projects, defined as projects that include a change of use of any existing Gross Floor Area from a non-residential use, other than a hotel use, to a residential use. Eligible projects would be exempt from lot coverage (Planning Code Section 134), open space (Section 135), streetscape and pedestrian improvements (Section 138.1), off-street freight loading (Sections 152 and 152.1), bicycle parking (Sections 155.1 and 155.2), transportation demand management (Section 169), and dwelling unit mix (Section 207.7) requirements. Existing curb cuts for vehicular access would be exempt from Section 155(r), but new or expanded curb cuts would be subject to that section. Eligible projects would be subject to a reduced dwelling unit exposure requirement (Section 140) that could be satisfied through two different ways. Intermediate Length Occupancies would be principally permitted and exempt from the controls in Section 202.10(b)(1) and (b)(2), regardless of the number of units in the adaptive reuse project. Live Work units would also be permitted in these types of projects. If a proposed project would retain some non-residential uses, the ordinance clarifies that it is not intended to modify the existing obligation to comply with Section 138 (Privately Owned Public Open Space).

Eligible projects would not be subject to the hearing requirements of Planning Code Section 309, unless the project seeks exceptions not otherwise waived or modified in Section 210.5.

To be eligible for the benefits of Planning Code Section 210.5, a Commercial to Residential Adaptive Reuse project would need to:

- be located in a C-2 or C-3 zoning district that is east of or fronting Franklin Street/13th Street and north of Townsend Street;
- not seek waivers or concessions under Planning Code Section 206.5 or 206.6;
- not propose an addition to the building envelope that exceeds more than 33% of the existing building's Gross Floor Area. Projects that exceed the 33% limit would still be eligible for the benefits of the program, but any portions in excess of the 33% limit (measured from the lowest floor to the highest floor) would be subject to the applicable Planning Code requirements; and
- submit an application on or before December 31, 2028.

To facilitate these adaptive reuse projects and residential uses more generally, this ordinance would also effect accompanying changes to zoning controls, including:

- principally permit Senior Housing and Residential Care Facilities in C-3 districts (Section 210.2), described in further detail in Section 4 of the Ordinance; and
- adopt form-based density limits for residential uses in certain areas of the C-2 district (Section 210.1), described in further detail in Section 4 of the Ordinance.

The ordinance would also effect the following zoning changes:

- replace existing rear yard requirements with lot coverage requirements in the C districts (Planning Code Section 134);
- modify the thresholds and procedures for public hearings of permits in Downtown Residential Districts and C-3 districts to require a hearing for new buildings or vertical additions greater than 120 feet in height (Planning Code Section 309); and
- modify the dimensional limits on exemptions to height restrictions for mechanical equipment, elevator, stair, and mechanical penthouses, including restrictions applicable to existing buildings in the C-3 district (Section 260).

(2) Economically Revitalize Downtown [Section 4 of Ordinance]

The legislation seeks to economically revitalize Downtown by amending zoning controls to:

- define Flexible Workspace as a "Retail Sales and Service Use that is a combination of any uses within the Retail Sales and Service use category or a General Entertainment Use that operates in conjunction with a principally or conditionally permitted Non-Retail Sales and Service Use other than a Commercial Storage, Wholesale Sales, or Wholesale Storage Use" (Planning Code Section 102) and allow Flexible Workspace as an active ground floor commercial use along certain street frontages in the C-3 district (Section 145.4);
- authorize large scale retail uses (uses in excess of 50,000 gross square feet) in the C-3 zoning district (Section 121.6);
- allow window displays of at least four feet in depth in the C-3 zoning district (Section 145.1);
- allow accessory storage in C districts (Section 204.3);

- allow the temporary installation for 60 days of certain signs in the C-3-R district (Section 205.1);
- allow temporary “pop-up” non-residential uses in vacant spaces for up to one year in parcels in C-2 and C-3 zoning districts east of or fronting Franklin Street/13th Street and north of Townsend Street, NC, NCT, or Mixed-Use Districts (Section 205.2). This would include formula retail, if that use is permitted in the underlying zoning district;
- principally permit Laboratory, Life Science, Agricultural and Beverage Processing, and Animal Hospitals in C-2 districts (Section 210.1);
- principally permit Senior Housing, Residential Care Facilities, Outdoor Entertainment, Open Recreation Areas, Animal Hospitals, and Trade Schools in C-3 districts (Section 210.2);
- allow formula retail as a ground floor use on Market Street in C-3 districts (Section 210.2);
- principally permit office and design professional uses on the second floor and higher in the C-3-R zoning district (Section 210.2); and
- require consideration of office vacancy rates in consideration of granting exceptions in the Transit Center Commercial Special Use District (Section 248).

(3) Streamline Sign Permitting in C-3 Districts and Citywide [Section 5 of Ordinance]

This ordinance would exempt existing business signs in the C-3 zoning district from certain sign permit requirements in Planning Code Section 604; however, a change from general advertising to nongeneral advertising sign copy or from nongeneral advertising to general advertising sign copy or an increase in area would constitute a new sign subject to the permitting provisions of Section 604.

The ordinance would also allow certain nonconforming Neon Signs to be physically detached from a building for repairs or maintenance, subject to conditions (Section 604). This provision would be applicable citywide.

(4) Streamline Historic Preservation Review [Section 6 of Ordinance]

This ordinance would streamline review of minor permits to alter for awnings, as may be delegated by the Historic Preservation Commission (Section 1111.1).

(5) Increase Threshold for Commercial to Residential Zoning Control in the C-3-O district, and Provide Alternatives to the On-Site Open Space Requirement in Certain C-3 Districts [Section 7 of Ordinance]

The ordinance would increase the threshold for large projects subject to the 2:1 commercial to residential use limits in the C-3-O district to 20,000 square feet from 15,000 square feet.

As an alternative to providing on-site privately-owned public open space (“POPOS”) in the C-3-O, C-3-S, C-3-G, and C-3-R districts, this ordinance would allow for payment of an in lieu fee (Section 426). The amount of the in lieu fee would be equal to the fee currently assessed for the in lieu open space fees in the C-3-O(SD) District (Section 426(b)) and also adjusted

annually in accordance with Section 409. In the C-3-O, C-3-S, and C-3-G districts, POPOS fees would be paid into the Downtown Park Fund. POPOS fees in the C-3-R district would be paid into the Union Square Park, Recreation, and Open Space Fund. The fees collected in all four districts would be used for the purpose of acquiring, designing, and improving public open space, recreational facilities, and other open space resources.

(6) Facilitate Residential Adaptive Reuse (Building Code Amendments) [Section 8 of Ordinance]

To accommodate new residential uses while providing reasonable safety to the building occupants, this ordinance would create Section 111A of the Building Code entitled “Adaptive Reuse”. The ordinance would direct the Building Official and Fire Code Official to develop an alternative building standards manual, which would provide the building standards applicable to Commercial to Residential Adaptive Reuse projects. This alternative building standards manual would include technical information and implementation parameters, standards for determining technical infeasibility, and alternative standards if technical infeasibility is present, as well as other rules, requirements and procedures as the City deems necessary, for implementing the intent of Section 111A.

(7) Principally Permitting Formula Retail and Waiving Size Controls for a Portion of the Showplace Square Area in the Urban Mixed Use Zoning District [Section 9 of Ordinance]

The ordinance would also rezone a portion of the Urban Mixed Use zoning district to allow formula retail as a principally permitted use at the shopping center, and would waive any size controls for such uses.

Background Information

The ordinance contains numerous findings about the importance of Downtown to San Francisco’s economic vitality, and the negative impacts the COVID-19 pandemic have had on Downtown. It describes how San Francisco is faced with a crisis of housing affordability at the same time commercial vacancy rates have increased. It describes how the shift to hybrid work, with its consequent reduction in office workers and foot traffic, has adversely impacted Downtown and other sectors of the City’s economy, including retail and, small business, and more broadly has impacted use and activation of public space, transportation, and public safety. To remedy these problems, 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 and attract new businesses Downtown, and streamline approvals to draw consumers back to Downtown.

A substitute ordinance was introduced on April 11, 2023.

The ordinance was amended in the Land Use and Transportation Committee on June 5, 2023. The amendments related to providing more flexibility for adaptive reuse projects by:

waiving the transportation demand management requirements, adding a second means of satisfying the exposure requirement, and replacing the 20% gross floor area and one vertical story limits with a 33% limit for addition gross floor area before the Planning Code would apply. The amendments also provided more flexibility the Flexible Workspace use, and clarify that formula retail is permitted as a temporary use where it is already permitted as a retail use. This is not a change in the existing code. The amendment also clarified the boundary for the ordinance as applying to parcels in the C-2 and C-3 zoning districts east of or fronting Franklin Street/13th Street and north of Townsend Street. The amendments also included an obligation for adaptive reuse projects to preserve Privately Owned Public Open Space by clarifying that Section 210.5 does not alter, modify or waive the projects obligation to comply with Planning Code Section 138 (POPOS), if the project retains non-residential uses.

On June 12, 2023, the ordinance was further amended in the Land Use and Transportation Committee to exclude hotel uses from the adaptive reuse program. After the ordinance was amended, it was duplicated and further amended. Those amendments include additional waivers and modifications from the Planning Code from the requirements for off-street loading and curb cuts. The amendments also expanded the exception from the sign controls in Planning Code Section 604 to include portions of the C-2 zoning district east of or fronting Franklin Street/13th Street and north of Townsend street. Previously this exemption had been limited to just the C-3 zoning district. The ordinance was also amended to raise the threshold for large projects subject to the 2:1 commercial to residential use limits in the C-3-O district to 20,000 square feet from 15,000 square feet.

This ordinance was amended in the Land Use and Transportation Committee on July 17, 2023 to eliminate streamlined review of administrative certificates of appropriateness and Qualifying Scopes of Work.

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