FILE NO. 240927

LEGISLATIVE DIGEST

[Planning Code - Development Impact Fees and Requirements for Non-Residential to Residential Conversion Projects]

Ordinance amending the Planning Code to exempt certain types of projects in the downtown area that replace non-residential uses with residential uses from development impact fees and requirements, including the Inclusionary Housing fee, and remove the application deadline from the Commercial to Residential Adaptive Reuse Program; 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

New development projects must pay specified development impact fees, and comply with development impact requirements in Article 4 of the Planning Code. These requirements are intended to offset new impacts and demands for public facilities that are created by the new projects. Section 406 provides for certain waivers from Article 4.

The City's Commercial to Residential Adaptive Reuse Program is codified in Section 210.5. That program provides specified relief from certain Planning Code standards for qualifying programs. To qualify for the program, a project must submit an application by December 31, 2028.

Amendments to Current Law

This ordinance would amend Article 4 to create an exemption for projects that propose to convert existing non-residential uses (e.g. office space) to residential uses. The fee waiver would apply both to projects that propose a change of use to an existing building and projects that propose to demolish existing non-residential buildings and construct new residential buildings. The fee waiver would apply only to the amount of gross floor area, as that term is defined in Section 102 of the Planning Code, that is converted to residential floor area. While the waiver would not apply to parts of the project that do not propose to convert non-residential to residential uses, other sections of the Planning Code may provide additional relief from Article 4 (e.g. Section 406 and 415A).

This ordinance would allow projects that were approved before January 1, 2025 but have not pulled a First Construction Document to benefit from the waiver. If the Planning Commission delegates its authority, the Director would be authorized to approve certain modifications to existing conditions of approval, so long as the changes are not considered significant.

Background Information

The City has experience as decline in demand for office space, and a commensurate increate in commercial vacancy rates. These changes have been particularly prominent in the Greater Downtown Area, defined as the North Financial District, South Financial District, Mid-Market, Union Square, Jackson Square, Mission Bay/China Basin, North Waterfront, Showplace Square, South of Market, and the Van Ness Corridor. In the Greater Downtown Area, the office sector has experienced a fivefold increase in total vacancy rate between the first quarter of 2019 and the first quarter of 2024.

To address the twin problems of under-utilized office space and lack of affordable and available housing in San Francisco, a January 6, 2023 report from the Board of Supervisors' Budget and Legislative Analyst urges City policymakers to consider programs to incentivize the conversion of office space into residential units.

On July 5, 2023, the City approved Ordinance 122-23 which established the Commercial to Residential Adaptive Reuse Program to facilitate residential uses Downtown by exempting eligible projects from certain Planning Code standards and requirements, including those concerning rear yard, open space, streetscape improvements, dwelling unit exposure, bike parking, transportation demand management, dwelling unit mix, and Intermediate Length Occupancy controls.

On December 14, 2023, consistent with Housing Element Implementing Action 8.5.2, and following the Board of Supervisors' approval of the Housing Production Ordinance, enacted as Ordinance No. 248-23, the Planning Commission passed Resolution No. 21473, which delegated authority to the Planning Director to make findings necessary for waivers and concessions under the State Density Bonus law, pursuant to Planning Code Section 206.6.

In March 2024, San Francisco voters approved Proposition C, which amended the Business and Tax Regulations Code by waiving the real estate transfer tax for first time transfers on non-residential properties converted to residential use, as long as the property owner receives permission to convert the property before January 1, 2030. The exemption is available for up to 5 million square feet of converted properties.

Despite these efforts, increased costs of construction and financing continue to present obstacles to the conversion of under-utilized non-residential spaces. Permit applications for new projects have declined and many previously approved projects have stalled.

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