



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Amendment

HEARING DATE: OCTOBER 18, 2018
EXPIRATION DATE: DECEMBER 17, 2018

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Project Name: Planning, Administrative Codes - Zoning Controls and Fees in the C-3-R (Downtown Retail) District
Case Number: 2018-011057PCA [Board File No. 180916]
Initiated by: Supervisor Peskin / Introduced September 18, 2018
Staff Contact: Audrey Butkus, Legislative Affairs
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Reviewed by: Aaron Starr, Manager of Legislative Affairs
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Recommendation: **Recommend Approval with Modifications**

PLANNING CODE AMENDMENT

The Ordinance would amend the Planning Code to change zoning controls for Non-Retail Sales and Service Uses in the C-3-R (Downtown Retail) Zoning District. The Ordinance would additionally amend the Planning and Administrative Codes to create the Union Square Park, Recreation, and Open Space Fund and Fee.

The Way It Is Now:

In the C-3-R Zoning District:

1. Non-Retail Sales and Service Uses are Permitted¹ (P) on the ground floor if they offer on-site services to the general public. Non-Retail Sales and Services are Not Permitted (NP) on the ground floor if they do *not* offer on-site services to the general public.
2. On the second floor and above, Non-Retail Sales and Services require a Conditional Use authorization.
3. Non-Retail Sales and Services that offer on-site services to the general public with a use size over 5,000 sq. ft. on any floor require a Conditional Use authorization.
4. Section 412 of the Planning Code established a Downtown Park Fee for new office development in the C-3-R. There is not currently an open space fee for new office development in the C-3-R.

The Way It Would Be:

In the C-3-R Zoning District:

1. Non-Retail Sales and Service Uses² would be Permitted (P) on floors one through three if they offer on-site services to the general public. Non-Retail Sales and Services would be Not Permitted (NP) on the ground floor if they do *not* offer on-site services to the general public.

¹ Except for Catering, Laboratory, and Wholesale Sales, which are Principally Permitted with no conditions. Commercial and Wholesale Storage are Not Permitted.

2. Non-Retail Sales and Services would be Not Permitted on the second and third floors unless they provide on-site services to the general public. On the fourth through sixth floors Non-Retail Sales and Services would require a Conditional Use authorization.
3. Non-Retail Sales and Service Uses with a footprint smaller than 5,000 sq. ft. would be Permitted on the fourth through sixth floors. Non-Retail Sales and Services with a use size over 5,000 sq. ft. on floors four through 6 would require a Conditional Use authorization.
4. A new fund and fee would be created that will apply to any development in the C-3-R District proposing to add or create new office space.

THE WAY IT IS		THE WAY IT WOULD BE
Non-Retail Sales Uses of any size (P)	7TH + FLOOR	Non-Retail Sales Uses of any size (P)
Non-Retail Sales Uses UNDER or OVER 5,000sqft (C)	4TH - 6TH FLOORS	Non-Retail Sales Uses UNDER 5,000sqft (P) & Non-Retail Sales Uses OVER 5,000sqft (C)
Non-Retail Sales Uses UNDER or OVER 5,000sqft (C)	2ND & 3RD FLOORS	Non-Retail Sales Uses who provide on-site services to public (P)
Non-Retail Sales Uses who provide on-site services to public (P) If over 5,000sqft (C)	(1ST) GROUND	Non-Retail Sales Uses who provide on-site services to public (P)

BACKGROUND

In 2017, the Mayor's Office of Economic and Workforce Development (OEWD) wrote a memo to the Planning Commission on the state of the retail sector. The report found that (1) rents for retail spaces in the C-3-R District had outpaced citywide rates, (2) space available for rent was at an all-time low, (3) the C-3-R District continued to contribute a large portion of City sales tax revenue to the economy, and (4)

² Except for Catering, Laboratory, and Wholesale Sales, which are Principally Permitted with no conditions. Commercial and Wholesale Storage are Not Permitted.

The market for leasing office space throughout San Francisco continues to thrive, presenting external pressure on the competitiveness of retail space within the C-3-R District. According to the Jones Lang Lasalle Office Outlook Report for Q1 2018, leasing activity maintained its strong momentum from previous years, with tenants rushing to lease space in new office developments in the City, even before construction is finished. That report also found that San Francisco office tenants value spaces with that possess creative and flexible build-outs that are move-in ready, meaning building owners may be incentivized to convert existing C-3-R retail sales and service spaces to General Office Use under the current market conditions.

In March of 2017, OEWD and the Planning Department reported to the Planning Commission on the trends in the C-3-R District compared to local, regional, and national trends. At that hearing, the Planning Department recommended three approaches for reviewing retail to office conversions in the C-3-R District: 1) Continuing to review projects seeking upper level retail-to-office conversions on a case-by-case basis through the CU authorization process; 2) Adopting a policy that provides specific additional criteria that such projects must meet in order for approval, or; 3) Initiate changes to the Code to codify the criteria that projects in the C-3-R must meet in order to be approved. After the initial hearing, OEWD conducted additional analysis which it presented to the Planning Commission in February 2018, at a second informational hearing about C3R retail to office conversion policy, and found that union Square lease rates have surpassed Citywide lease rates, and that Union Square has higher lease rates than any part of the City in all classes of office.

ISSUES AND CONSIDERATIONS

Interim Controls in the C-3-R:

On May 22, 2018, the Board of Supervisors passed interim controls, sponsored by Supervisor Peskin, requiring applications to convert Retail to Non-Retail Uses to make additional findings regarding the viability of the proposed conversion. The applicant must also provide information regarding the vacancy and rental rates for Retail and Non-Retail Sales and Service Uses, and any other relevant information regarding neighborhood development, economic or demand changes in the C-3-R District. The interim controls became effective on June 1, 2018, and will expire 18 months from that date, or until the Board of Supervisors adopts permanent legislation.

The C-3-R Downtown District:

The District is described in the Code as *“a regional center for comparison shopper retailing and direct consumer services. It covers a compact area with a distinctive urban character, consists of uses with cumulative customer attraction and compatibility, and is easily traversed by foot. Like the adjacent Downtown Office District, this District is well-served by City and regional transit, with automobile parking best located at its periphery. Within the District, continuity of retail and consumer service use is emphasized, with encouragement of pedestrian interest and amenities and minimization of conflicts between shoppers and motor vehicles. ”*.

The C-3-R District is one of the more compact Downtown C-3 Zoning Districts and encompasses the Union Square neighborhood, with boundaries extending from Bush Street to the North, Kearny Street to the East, Mission Street to the South and Powell Street to the West. The District prioritizes the concentration of retail uses within the district while recognizing that too much retail space in other scattered locations could weaken the strength of a concentrated retail district. A 2016 study showed that Union Square merchants generate approximately 37% of San Francisco’s sales tax in general consumer goods, and 15% of all City sales tax dollars. The C-3-R District represents a retail core, and in spite of some decentralization and fragmentation of retail uses over the years, the retail environment of Union Square has remained strong.

Mayor’s Office of Economic and Workforce Development C-3-R Survey :

At the February 2018 Informational Hearing about C3R retail sales and services office conversion policy, the Planning Commission voiced opposition to vote on the Planning Department staff policy recommendations for retail to office conversion without further data analysis on what uses are located on the second and third floors within buildings in the C3R zone. Following the February 2018 informational hearing OEWD contracted with the Union Square Business Improvement District (USBID) to provide additional use mix data through a field survey of the 2nd and 3rd floors of buildings located on all C-3-R parcels. USBID worked through the summer to survey and classify the use of the 605 parcels located within the C-3-R zone. The results of the survey are attached as Exhibit B. The survey found that 73.8% of available C-3-R 2nd and 3rd floor space is occupied by Retail Sales & Services or other uses open to the general public: 78.9% on 2nd floors and 67.7% on 3rd floors. The amount of total square footage dedicated to these types of uses on the 2nd and 3rd floors in the C-3-R District is 2,556,601 square feet across 226 parcels. The overall vacancy rate on the 2nd and 3rd floors was a low 8.2%: The vacancy rates average 7.7% on floor 2 and 8.8% on floor 3 within the C3R zone. These rates are within a healthy commercial vacancy range between 5%-10%.

Proposals to Convert Retail to Office in the C-3-R:

A chart summarizing the recent proposals the Department has received to convert retail space to office in the C-3-R is included in this report as Exhibit C. The chart shows that between the ten proposals, approximately 268,268 square feet of retail would be converted to office (*please note that as each project evolves, these numbers may change*). An example of one of these projects is described below:

The building at 77 Geary currently contains legal, existing office occupancy for the entirety of the 4th and 5th floors. There are additional existing office uses at 6th and 7th floors. The property owner is seeking to create office uses at the entirety of the 2nd and 3rd floors. The current proposal would lease all but 5,000 square feet of the 2nd floor to a company called “Mulesoft”. Mulesoft currently occupies a fully built-out office space at the 3rd floor, and uses the 2nd floor as an employee break area/lounge. The space at the 2nd floor is currently without much tenant improvement. Floors 2 and 3 are the subject of an active enforcement case for converting retail space to office use without a Conditional Use authorization.

The remaining 5,000sf of office space at the 2nd floor is currently leased by Nespresso, who is also the ground-floor retail tenant. The Planning Department was unable to consider the Nespresso offices on the 2nd floor an accessory space to the retail at the ground floor because the offices are physically separate from the floor below.

Protecting Class B and Small Office Space:

Class B office space is middle-grade office space. The space is usually older, with technological capacities that are sufficient to run a typical non-retail business, but do not usually offer the newest technological office features. The buildings tend to attract rents that are average for the market, and usually host a large variety of business types.

In their initial 2017 study of the C-3-R District’s retail health, MOEWD found that Union Square contained approximately 10% of the City’s overall Class B office space. The study also found that although the vacancy rates of Class B office space in Union Square were slightly higher than average, so too were the average rent prices compared to other Class B offices in the rest of the city. This type of office is typically considered extremely desirable to local, and smaller office tenants, as Class B offices tend to be in prime market areas while being more affordable than Class A office space. It is this type of office that the city should seek to protect and encourage and Union’s Square’s larger than average concentration of Class B office space should be considered when formulating new regulations.

The Proposed Union Square Park, Recreation, and Open Space Fee:

The proposed fee is to provide funding to increase the supply of park, recreation, and open space facilities to serve the needs attributable to new office development in the C-3-R District. As new office development occurs, additional park, recreation, and open space facilities are needed to maintain the quality of urban experience that makes downtown San Francisco an attractive place to be. Open space will become increasingly important as the number of people in downtown increases. Meeting the demand for additional open space in the face of intense competition for land requires both private and public-sector action. The Union Square Park, Recreation, and Open Space Fee would apply to any proposed project in the C-3-R District that proposes to build or expand office space. The fee would be \$4 per every square foot of development, and would function to offset the increased impacts that office development brings.

Implementation:

The Department determined that this Ordinance will impact our current implementation procedures; Tenant Improvement permits allow the demolition of interior walls. Currently, these types of permits are usually approved over the counter. Under the proposed Ordinance, potential mergers of space may result in suites with square footages of over 5,000sqft. The legislation states that Non-Retail Sales and Services Uses over 5,000sqft require Conditional Use authorization. The proposed Ordinance will likely cause Planning staff to route all Tenant Improvement permits on floors four through six in the C-3-R to a staff planner for further review. The additional review will be needed to ensure the proposed Tenant Improvements do not result in the creation of an individual suite for Non-Retail Sales and Service that is over 5,000sqft. Additionally, this may impact the Department's Enforcement Division, as tracking when a Non-Retail space has been illegally merged to create a space over 5,000 square feet can prove difficult due to the lack of public access to these types of spaces.

General Plan Priorities:

The proposed Ordinance is consistent with the following objectives and policies of the General Plan:

DOWNTOWN AREA PLAN

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which produces substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences which cannot be mitigated.

The proposed Ordinance ensures that the retail core in the Downtown is preserved, while also accommodating for Non-Retail uses on the upper floors.

OBJECTIVE 3

IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.

Policy 3.1

Maintain high quality, specialty retail shopping facilities in the retail core.

Policy 3.3

Preserve retail service businesses in upper floor offices in the retail district.

The proposed Ordinance fosters continued development of Retail uses on the first three floors of buildings in the C-3-R District by not permitting Non-Retail Sales and Service uses unless they provide on-site services to the general public.

OBJECTIVE 5

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

Policy 5.1

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

The strength of the prime office activities concentrated downtown is dependent upon a wide range of support commercial activities nearby. The proposed Ordinance reconfigures controls to better accommodate an appropriate amount of Retail uses and Non-Retail Sales and Service uses that provide on-site services to the general public. In accordance with the Downtown Plan, these uses on lower floors serve to benefit Non-Retail and Office uses on upper floors.

OBJECTIVE 9

PROVIDE QUALITY OPEN SPACE IN SUFFICIENT QUANTITY AND VARIETY TO MEET THE NEEDS OF DOWNTOWN WORKERS, RESIDENTS, AND VISITORS.

Policy 9.1

Require usable indoor and outdoor open space, accessible to the public, as part of new downtown development.

Policy 9.2

Provide different kinds of open space downtown.

The proposed Ordinance's impact fee will contribute to the development of adequate open space; which directly contributes to the desirability of downtown San Francisco as a place to visit, work, and live.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed Ordinance follows the directives laid out in the Downtown Area Plan, to improve and preserve the Downtown as San Francisco's primer location for retail and commercial activity, while also fostering office development where appropriate.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The proposed Ordinance ensures the preservation of highly valued retail space in the Downtown, while also loosening some restrictions for certain types of Non-Retail Sales and Service uses in order to encourage their development on higher floors.

RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect.

Recommended Modifications:

1. Amend the applicability of the proposed Union Square Park, Recreation, and Open Space Fee to apply to office development over 5,000 square feet *only*.
2. Amend Table 210.2 (2) in the proposed Ordinance to clarify that Non-Retail Sales and Service Uses under 5,000 square feet are Permitted in the C-3-R.

BASIS FOR RECOMMENDATION

The proposed Ordinance, with recommended modifications, will successfully aid in implementing the intention of the Downtown Area Plan, which aims to foster a strong retail core, while providing appropriate avenues for office uses. The Downtown Area Plan created the C-3-R Downtown Retail Zoning District (C-3-R District) to prioritize the concentration of retail uses within the district. Although the retail landscape was different in the 1980's when the Downtown Plan was crafted, the rapid growth of office uses and the diminishing supply of available space led to concern about office encroachment into traditional retail areas. The concern was born out of conversions to office in spaces such as the former Livingston's and the Sloan Building. The Downtown Plan specifically identified the ease of converting upper story retail space for office users able to pay higher rents. Accordingly, the plan created the C-3-R District, which represented the retail core and in which regulations were crafted to protect against retail conversions.

The Downtown Plan also recognized that too much retail space in other scattered locations could weaken the strength of a concentrated retail district. The loss of retail space in the C-3-R District will diminish the existing character of the Union Square area by reducing the number of retailers. This in turn may cause some shoppers to leave sooner than they might otherwise if a greater density of retailers were present. To ensure that the City does not lose the existing character of the C-3-R District, it is necessary to maintain regulations that will foster a strong retail core on the lower floors, while providing avenues for Non-Retail Sales and Services to occupy the upper floors.

The conversion of retail to office space in the C-3-R District brings with it new impacts on the public realm. When a space converts from retail to office, there are generally more office workers per square foot than in retail. Public facilities, such as parks and open spaces, will be more heavily used throughout the day. This results in a more intense use for public facilities due to the larger worker population. The stress on these public facilities and the need for new and improved open space amenities and infrastructure necessitates the need for an impact fee to offset these costs.

Recommended Modifications:

1. **Amend the applicability of the proposed Union Square Park, Recreation, and Open Space Fee to apply to office development over 5,000 square feet *only*.**

The proposed Ordinance seeks to protect not only Retail Sales and Services uses, but also small Non-Retail Sales and Service Uses by Permitting (P) Non-Retail Sales and Services under 5,000 square feet to locate on floors four through six. Placing size limits on floors four through six for Non-Retail Sales and Services uses will assist in protecting the smaller and Class B offices that are heavily concentrated in the C-3-R. It is important to keep these types of offices not only accessible, but affordable, as they are the ideal spaces to host smaller, locally-based businesses. To further assist these types of businesses from establishing in the C-3-R, the fee should be waived if the office development proposed is 5,000 square feet or less.

2. **Amend Table 210.2 (2) in the proposed Ordinance to clarify that Non-Retail Sales and Service Uses under 5,000 square feet are Permitted in the C-3-R.**

Due to a drafting error, the legislation currently states a Conditional Use authorization is required for Non-Retail Sales and Service Uses if located on floors four through six and the use is larger than 5,000 gross square feet. This is not the intention of the legislation. The intention of the legislation is to require a Conditional Use authorization on the fourth through sixth floors *only if* the Non-Retail Sales and Service is over 5,000 square feet. Otherwise, the Use shall be Permitted.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

ENVIRONMENTAL REVIEW

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c)(2) 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 received one email from the public. The comment is from the Union Square Business Improvement District and is attached as Exhibit D. The letter requests that the proposed Ordinance be amended to be more flexible to allowing Non-Retail Sales and Service Uses on the lower floors.

RECOMMENDATION:	Recommendation of Approval with Modifications
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
Exhibit B: Results of MOEWD Survey of 2nd & 3rd Floors in the C-3-R

Exhibit C: Proposals to Convert Retail to Office in the C-3-R
Exhibit D: Letter from Union Square BID
Exhibit E: Board File No. 180916



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution HEARING DATE OCTOBER 18, 2018

Project Name: Planning, Administrative Codes - Zoning Controls and Fees in the C-3-R (Downtown Retail) District
Case Number: 2018-011057PCA [Board File No. 180916]
Initiated by: Supervisor Peskin / Introduced September 18, 2018
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RESOLUTION APPROVING A PROPOSED ORDINANCE THAT WOULD TO CHANGE ZONING CONTROLS FOR NON-RETAIL SALES AND SERVICE USES IN THE C-3-R DOWNTOWN RETAIL ZONING DISTRICT; AMENDING THE PLANNING AND ADMINISTRATIVE CODES TO CREATE THE UNION SQUARE PARK, RECREATION, AND OPEN SPACE FUND AND FEE; 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 September 18, 2018 Supervisor Peskin introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 180916, which would to change zoning controls for Non-Retail Sales and Service Uses in the C-3-R Downtown Retail Zoning District, and amend the Planning and Administrative Codes to create the Union Square Park, Recreation, and Open Space Fund and Fee;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 18, 2018; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Acts Sections 15060(c)(2) 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 1650 Mission Street, Suite 400, 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.

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 Downtown Area Plan created the C-3-R Downtown Retail Zoning District (C-3-R District) to prioritize the concentration of retail uses within the district. Although the retail landscape was different in the 1980's when the Downtown Plan was crafted, the rapid growth of office uses and the diminishing supply of available space led to concern about office encroachment into traditional retail areas. The concern was born out of conversions to office in spaces such as the former Livingston's and the Sloan Building. The Downtown Plan specifically identified the ease of converting upper story retail space for office users able to pay higher rents. Accordingly, the plan created the C-3-R District, which represented the retail core and in which regulations were crafted to protect against retail conversions.

The Downtown Plan also recognized that too much retail space in other scattered locations could weaken the strength of a concentrated retail district. The loss of retail space in the C-3-R District will diminish the existing character of the Union Square area by reducing the number of retailers. This in turn may cause some shoppers to leave sooner than they might otherwise if a greater density of retailers were present. To ensure that the City does not lose the existing character of the C-3-R District, it is necessary to maintain regulations that will foster a strong retail core on the lower floors, while providing avenues for Non-Retail Sales and Services to occupy the upper floors.

The conversion of retail to office space in the C-3-R District brings with it new impacts on the public realm. When a space converts from retail to office, there are generally more office workers per square foot than in retail. Public facilities, such as parks and open spaces, will be more heavily used throughout the day. This results in a more intense use for public facilities due to the larger worker population. The stress on these public facilities and the need for new and improved open space amenities and infrastructure necessitates the need for an impact fee to offset these costs.

1. **General Plan Compliance.** The proposed Ordinance and the Commission's recommended modifications are consistent with the following Objectives and Policies of the General Plan:

General Plan Priorities:

The proposed Ordinance is consistent with the following objectives and policies of the General Plan:

DOWNTOWN AREA PLAN

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1

Encourage development which produces substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences which cannot be mitigated.

The proposed Ordinance ensures that the retail core in the Downtown is preserved, while also accommodating for Non-Retail uses on the upper floors.

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OBJECTIVE 3

IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.

Policy 3.1

Maintain high quality, specialty retail shopping facilities in the retail core.

Policy 3.3

Preserve retail service businesses in upper floor offices in the retail district.

The proposed Ordinance fosters continued development of Retail uses on the first three floors of buildings in the C-3-R District by not permitting Non-Retail Sales and Service uses unless they provide on-site services to the general public.

OBJECTIVE 5

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Policy 5.1

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

The strength of the prime office activities concentrated downtown is dependent upon a wide range of support commercial activities nearby. The proposed Ordinance reconfigures controls to better accommodate an appropriate amount of Retail uses and Non-Retail Sales and Service uses that provide on-site services to the general public. In accordance with the Downtown Plan, these uses on lower floors serve to benefit Non-Retail and Office uses on upper floors.

OBJECTIVE 9

PROVIDE QUALITY OPEN SPACE IN SUFFICIENT QUANTITY AND VARIETY TO MEET THE NEEDS OF DOWNTOWN WORKERS, RESIDENTS, AND VISITORS.

Policy 9.1

Require usable indoor and outdoor open space, accessible to the public, as part of new downtown development.

Policy 9.2

Provide different kinds of open space downtown.

The proposed Ordinance's impact fee will contribute to the development of adequate open space; which directly contributes to the desirability of downtown San Francisco as a place to visit, work, and live.

COMMERCE AND INDUSTRY ELEMENT

OBJECTIVE 1

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.3

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed Ordinance follows the directives laid out in the Downtown Area Plan, to improve and preserve the Downtown as San Francisco's primer location for retail and commercial activity, while also fostering office development where appropriate.

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1

Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The proposed Ordinance ensures the preservation of highly valued retail space in the Downtown, while also loosening some restrictions for certain types of Non-Retail Sales and Service uses in order to encourage their development on higher floors.

2. **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.

3. **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 October 18, 2018.

**Resolution No.
October 18, 2018**

**CASE NO. 2018-011057PCA
Zoning Controls & Fees in the C-3-R District**

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: October 18, 2018

OEWD/USBID C-3-R 2nd and 3rd Floor Survey Highlights

Overview

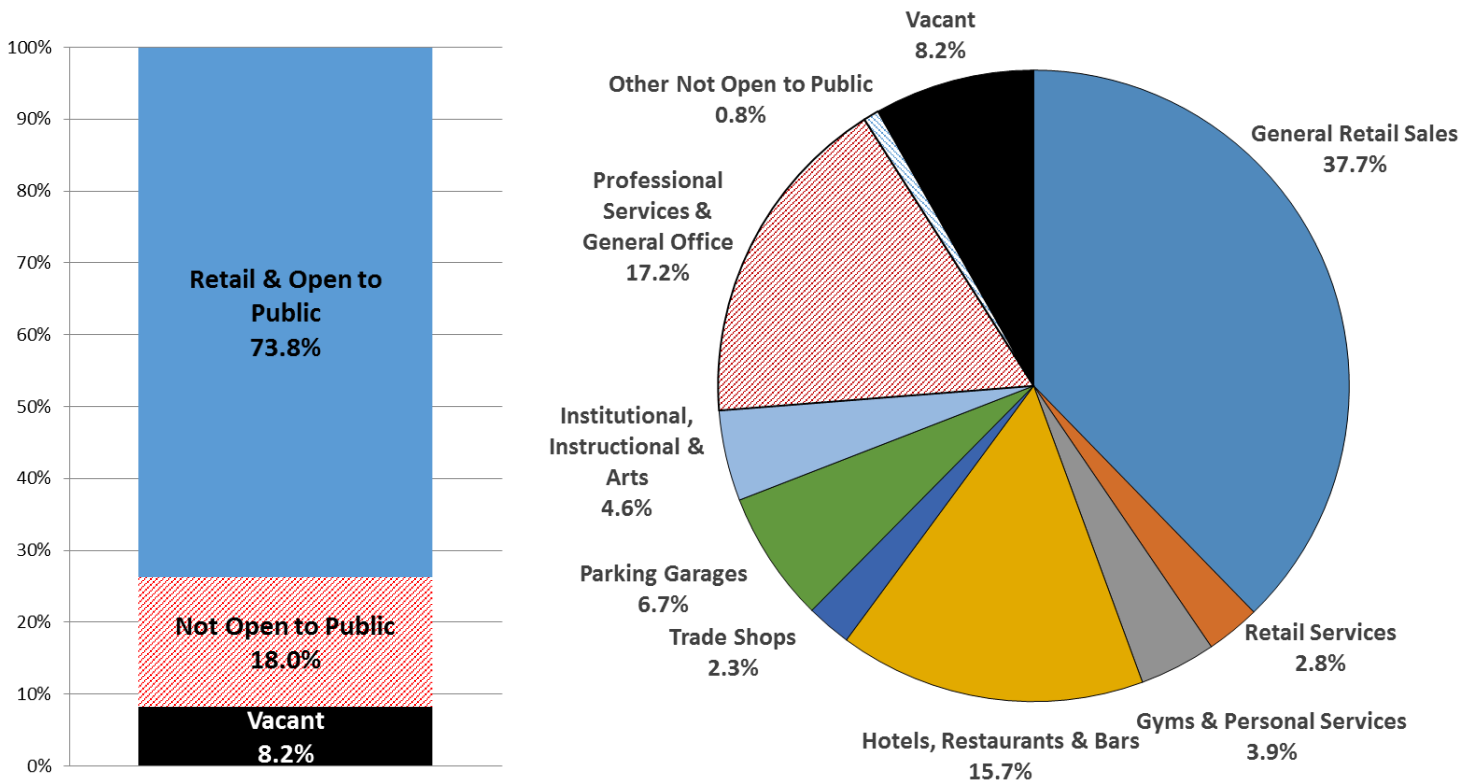
On March 16, 2017 and on February 22, 2018 Planning Department Staff and OEWD presented data in two informational hearings on Retail Conversions in the C-3-R.

Field Survey Methodology

Following the February 2018 Informational Hearing, OEWD contracted with the USBID to conduct a field use mix survey of the 2nd and 3rd floors of buildings located in parcels within the C3R zone.

USBID worked through the summer of 2018 to survey and classify the use mix located within buildings occupying 605 parcels that make up the C-3-R

Uses on 2nd and 3rd floors: Overview of uses by category



Nearly 74% of the surveyed 2nd and 3rd space is retail or open to the public

% Sq Ft by Use

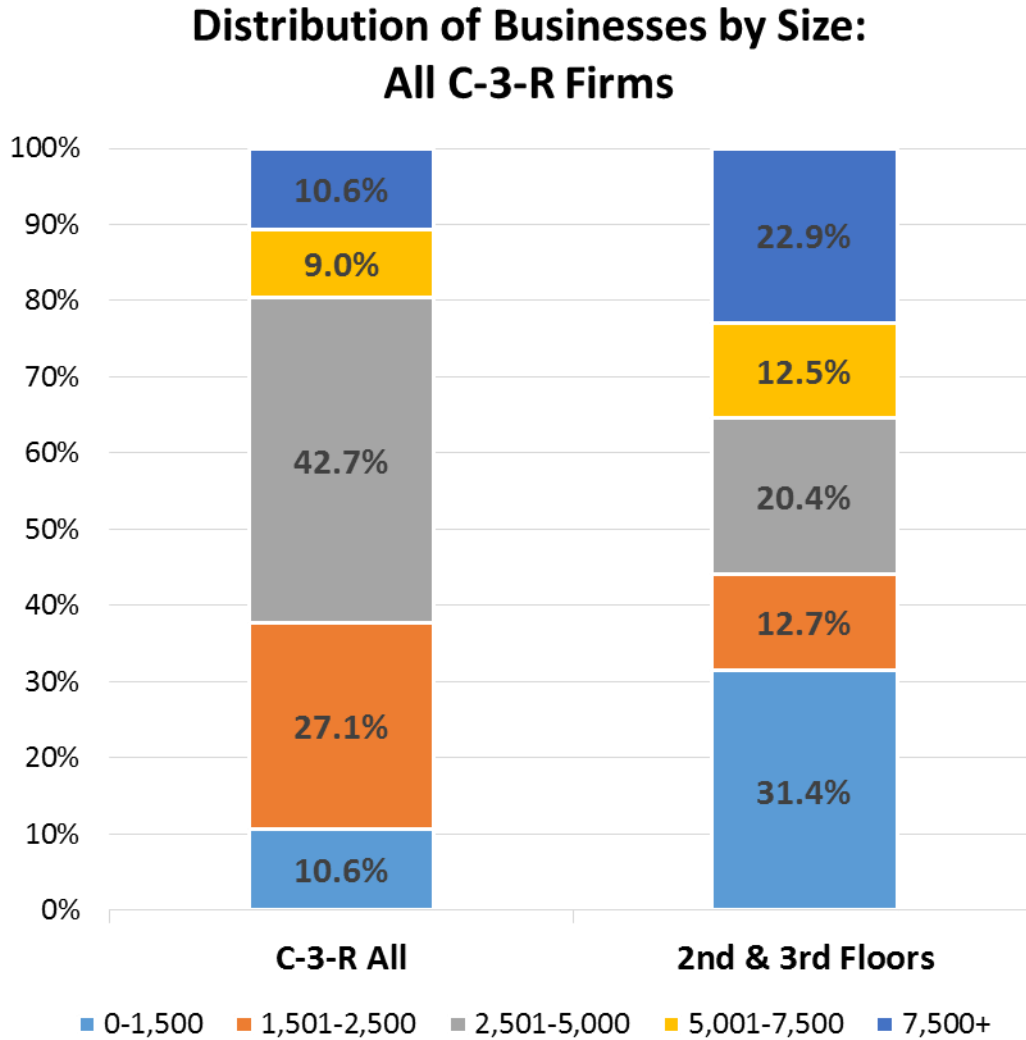
Category	2nd Floor	3rd Floor	Both Floors
Retail & Open to Public	78.9%	67.7%	73.8%
<i>Retail Sales & Services</i>	65.6%	58.7%	62.4%
<i>Other Open to Public</i>	13.3%	9.0%	11.3%
Not Open to Public	13.4%	23.5%	18.0%
<i>Professional Services & General Office</i>	12.6%	22.7%	17.2%
<i>Other Not Open to Public</i>	0.8%	0.8%	0.8%
Vacant	7.7%	8.8%	8.2%
Share of Square Footage	100.0%	100.0%	100.0%

Share of Total Square Footage

		Open to			
Category		Public?	2nd Floor	3rd Floor	Both Floors
Retail & Open to Public	General Retail	Yes	40.9%	33.9%	37.7%
	Hotel	Yes	13.2%	15.3%	14.2%
	Trade Shop	Yes	2.6%	1.9%	2.3%
	Gyms	Yes	2.1%	2.5%	2.3%
	Personal Services	Yes	1.9%	1.3%	1.7%
	Restaurants & Bars	Yes	2.1%	0.8%	1.5%
	Retail Professional Services	Yes	0.2%	1.3%	0.7%
	Financial Services	Yes	1.2%	0.1%	0.7%
	Non-Retail Professional Service	Yes	0.7%	0.6%	0.7%
	Health Services	Yes	0.5%	0.8%	0.6%
	Parking Garages	Yes	7.5%	5.7%	6.7%
	Institutional & Instructional Uses	Yes	5.2%	3.3%	4.3%
	Entertainment, Arts and Recreation	Yes	0.6%	0.0%	0.3%
Not Open to Public	General Office	No	9.2%	14.3%	11.6%
	Non-Retail Professional Service	No	2.1%	5.9%	3.8%
	Design Professional	No	1.1%	2.4%	1.7%
	Financial Services	No	0.2%	0.1%	0.1%
	Laboratory	No	0.0%	0.1%	0.1%
	Institutional & Instructional Uses	No	0.1%	0.0%	0.0%
	N/A	No	0.7%	0.7%	0.7%
Vacant	Vacant	Vacant	7.7%	8.1%	7.9%
	Partial Vacancy	Vacant	0.0%	0.7%	0.3%
Share of Total Square Footage			100.0%	100.0%	100.0%

Union Square: Size distribution of all C-3-R businesses vs. those on 2nd and 3rd floors

- 37.7% of all C-3-R spaces are 5,000 square feet or less
- 44.1% of 2nd and 3rd floor spaces are 5,000 square feet or less



Average footprints of C-3-R businesses on 2nd and 3rd floors

Average Square Footage

Category	2nd Floor	3rd Floor	Both Floors
Retail & Open to Public	6,824	5,461	6,175
<i>Retail Sales & Services</i>	6,345	5,151	5,769
<i>Other Open to Public</i>	10,869	8,961	10,087
Not Open to Public	5,463	4,982	5,165
<i>Professional Services & General Office</i>	5,772	5,304	5,480
<i>Other Not Open to Public</i>	2,928	1,850	2,299
Vacant	4,816	3,506	4,068
Average Square Footage	6,405	5,095	5,729

Square Footage

Category		Open to Public?	2nd Floor	3rd Floor	Both Floors
Retail & Open to Public	General Retail	Yes	768,231	538,975	1,307,206
	Hotel	Yes	248,144	243,849	491,993
	Trade Shop	Yes	48,590	30,953	79,543
	Gyms	Yes	39,184	39,184	78,368
	Personal Services	Yes	36,158	21,218	57,376
	Restaurants & Bars	Yes	40,180	12,558	52,738
	Retail Professional Services	Yes	4,654	21,167	25,821
	Financial Services	Yes	22,957	1,856	24,813
	Non-Retail Professional Service	Yes	13,701	9,966	23,667
	Health Services	Yes	9,060	12,640	21,700
	Parking Garages	Yes	141,682	90,667	232,349
	Institutional & Instructional Uses	Yes	97,806	52,713	150,519
	Entertainment, Arts and Recreation	Yes	10,508	0	10,508
Not Open to Public	General Office	No	173,363	227,406	400,769
	Non-Retail Professional Service	No	38,794	94,491	133,285
	Design Professional	No	21,538	37,855	59,393
	Financial Services	No	2,971	944	3,915
	Laboratory	No	0	1,872	1,872
	Institutional & Instructional Uses	No	1,411	0	1,411
	N/A	No	13,230	11,077	24,307
Vacant	Vacant	Vacant	144,469	129,510	273,979
	Partial Vacancy	Vacant	0	10,749	10,749
Share of Total Square Footage			1,876,631	1,589,650	3,466,281

Retail Conversions in C-3-R as of 10/10/18

	Address	SF	Floors	Office Allocation	Subject to Interim Controls?	Fees
Already Entitled	925 Market (The Melt)	2,400	3	No	No	- DT Park (412)
	945 Market (6x6)	47,522	4-5	Small Cap	No	- DT Park (412) - Childcare
	120 Stockton (Macy's Mens)	49,999	6-7	Small Cap	No	- DT Park (412) - Jobs/Housing (413) - Childcare - Public Art - TSF
Pending Applications	77 Geary (Mulesoft)	24,999	2-3	No	Yes	- DT Park (412)
	146 Geary (Britex)	6,000	3-4	No	Yes	- DT Park (412)
	233 Geary (Macy's)	49,999	5-7	Small Cap	Yes	- DT Park (412) - Childcare
	222 Sutter (Loehman's)	12,000	3	No	Yes	- DT Park (412)
	865 Market (Westfield)	49,999	7-8	Small Cap	No	- DT Park (412) - Childcare
	220 Post (Saks Mens)	19,000	3-5	No	Yes	- DT Park (412)
	167 Powell	6,350	2-3 (hotel to office)	No	Yes	- DT Park (412)
		268,268				



UNION SQUARE
BUSINESS IMPROVEMENT
DISTRICT

October 10, 2018

Dear President Hillis and San Francisco Planning Commission Members,

Thank you for bringing attention to the Union Square Business Improvement District. We share your concerns of offices taking over a vibrant, international retail destination. Union Square remains resilient and looks toward the future as the retail landscape changes across the country. Responding to rapidly changing conditions requires agility and the ability to respond to those changes. What is retail becoming in Union Square?

The footprint of retail is shrinking to favor a "showroom" model of doing business. It remains a priority of big brands to have a physical presence, but not necessarily as a way to move large amounts of inventory. New generations of shoppers are going to stores to experience something unique and to try products to then purchase online from home. Shoppers are not going up and down multiple levels to search for products. Big brands are finding major increases in sales when their footprint shrinks down to a single ground floor level, especially in Union Square.

Traditional retail on the ground floor is essential and conditional use on the upper floors is appropriate. As new uses emerge, Union Square needs to respond with flexibility. San Francisco is dynamic but we are concerned that rigid rules and prohibitions may inhibit the development of the welcoming district we want to be.

Thoughtful planning reviews, utilizing CUP's, and offering incentives will provide the flexibility to achieve the vibrancy we all desire. **We are strongly requesting an ease of restrictions on the 3rd floor within the C-3-R to allow conditionally permitted office use.**

Concerns for Consideration:

- 23 buildings within the C-3-R that have vacancies on the ground floor are also vacant on the 2nd and/or 3rd floor.
- Tying together the ground floor with the 2nd and/or 3rd floor is unfavorable to retailers, which creates additional vacancies.
- Prohibiting office spaces on the 3rd floor would increase vacancy rates as retailers typically only want to lease ground floor spaces in this market.

- "Stranded" floors (i.e. retail or public serving uses without street presence if a multilevel retailer cannot lease all retail-zoned floors) are increasing.
- More operating and security costs for retailers to have multiple floors. Retail theft is a major quality of life issue in Union Square. Security issues are better managed with smaller footprints.
- Not all buildings are suitable for retail on the 3rd floors. Many buildings in Union Square would need to install elevators and escalators to accommodate build out needs. Either the expense for these renovations would be cost prohibitive to do business or the building just does not have enough space to do so.
- Prada on 201 Post left for Westfield for a smaller footprint approximately two years ago. Space was split for Fendi and Cartier because formula retail did not want the entire space.
- Macy's is currently building independent retail shops on the ground floor on Geary as they are shrinking their footprint.
- Nordstrom's at Westfield is currently looking at giving up retail space for office spaces.

Suggestions for Consideration:

- USBID supports ground floor retail. Offices should remain prohibited on the ground floor.
- Offices on the 2nd floor should be allowed if they serve the general public in the form of retail or professional services.
- Office uses should be conditionally permitted on the 3rd floor at any size pursuant to interim controls (offices permitted when 5,000sqft or less).
- USBID supports Supervisor Peskin's \$4 per square foot development impact fee for Union Square public realm projects and initiatives.

Additional Items for Consideration:

- Offer an incentive to convert and upgrade previously non-retail to encourage retail development. Destination businesses generating foot traffic preferred.
- Encourage redevelopment of a vacant space by offering an incentive to buildings that are at least 30 years old and has been completely vacant for at least 18 months.

Key Findings from C-3-R 2nd and 3rd Floor Uses Study Summer 2018 by USBID:

- 8.2% vacancy rate on 2nd and 3rd floors.
- 13% vacancy rate on 2nd and 3rd floors near Sutter area in C-3-R.

Union Square Economic Impact:

- Properties in Union Square generated \$61 million in property tax revenues for the City in FY 2016-17.
- In 2017, Union Square businesses generated over \$20 million in sales tax revenue for the City.
- Union Square generated one-third of citywide sales in general consumer goods.
- Union Square generated \$2.5 billion in total sales of goods.

Thank you in advance for your consideration.

Sincerely,



Karin Flood

Executive Director

Union Square Business Improvement District

[Planning, Administrative Codes - Zoning Controls and Fees in the C-3-R (Downtown Retail) District]

Ordinance amending the Planning Code to change zoning controls for Non-Retail Sales and Service Uses in the C-3-R (Downtown Retail) Zoning District; amending the Planning and Administrative Codes to create the Union Square Park, Recreation, and Open Space Fund and Fee; affirming 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.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 180916 and is incorporated herein by reference. The Board affirms this determination.

(b) On _____, the Planning Commission, in Resolution No. _____, adopted findings that the actions contemplated in this ordinance are consistent, on balance,

1 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
2 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
3 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

4 (c) Pursuant to Planning Code Section 302, the Board finds that this Planning Code
5 amendment will serve the public necessity, convenience, and welfare for the reasons set forth
6 in Planning Commission Resolution No. _____, and the Board incorporates such reasons
7 herein by reference.

8
9 Section 2. Findings About the Need for Permanent Controls for Non-Retail Sales and
10 Service Uses.

11 (a) Adopted in 1985, the Downtown Area Plan sets forth policies that guide land use
12 decisions to create the physical form and pattern of a vibrant, compact, pedestrian-oriented,
13 livable, and vital downtown San Francisco. The Downtown Area Plan grew out of a
14 contemporaneous awareness of the public concern over the degree of change occurring
15 downtown and the need to balance the often conflicting civic objectives of fostering a vital
16 economy and retaining the urban patterns and structures which collectively form the physical
17 essence of San Francisco.

18 (b) The twenty-three core objectives of the Downtown Area Plan continue to guide
19 the evolution of one of the most successful core areas of any American city. The vitality, job
20 and housing density, retail activity, and overall character of San Francisco's downtown area
21 have improved dramatically since the inception of the Downtown Area Plan.

22 (c) Objective 3 of the Downtown Area Plan calls for the improvement of downtown
23 San Francisco's position as the region's prime location for specialized retail trade. Policy 3.1
24 of the Downtown Area Plan mandates the maintenance of high quality, specialty retail
25 shopping facilities in the retail core, and notes that the concentration of quality stores and

1 merchandise allows the retail area to function as a regional, as well as a citywide attraction.
2 Policy 3.1 also provides that the appeal of the downtown area is enhanced by the “sunny
3 pedestrian environment” in and around Union Square, and directs that further development
4 retain the area’s compact and pleasant environmental setting.

5 (d) To enhance the viability of a vibrant retail environment, the Downtown Area Plan
6 created the C-3-R Downtown Retail Zoning District (C-3-R District), and prioritized the
7 concentration of retail uses within the district while recognizing that too much retail space in
8 other scattered locations could weaken the strength of a concentrated retail district. The C-3-
9 R District represented a retail core, and regulations were crafted to protect against retail to
10 non-retail conversions. In spite of some decentralization and fragmentation of retail uses over
11 the years, the retail environment of Union Square has remained strong.

12 (e) The C-3-R District is one of the more compact Downtown C-3 Zoning Districts
13 and encompasses the Union Square neighborhood, with boundaries extending from Bush
14 Street to the North, Kearny Street to the East, Mission Street to the South and Powell Street
15 to the West. Also referred to as the Downtown Retail District, the C-3-R District is a regional
16 center for comparison shopper retailing and direct consumer services. It covers a compact
17 area with a distinctive urban character, consists of uses with cumulative customer attraction
18 and compatibility, and is easily traversed by foot.

19 (f) The Planning Department and Planning Commission have been studying
20 ongoing trends and changes in the retail market in San Francisco. In response to applications
21 seeking to convert existing retail space to office use within the C-3-R District, the Planning
22 Commission held hearings on March 16, 2017, and February 22, 2018, to discuss
23 conversions from retail to other uses in that district.

24 (g) At the March 16, 2017, Planning Commission hearing, the Office of Economic
25 and Workforce Development (OEWD) reported on the trends in the C-3-R District as

1 compared to local, regional, and national trends in retail (2017 OEWD Report). At that
2 hearing, Planning Department staff outlined three potential approaches to reviewing retail-to-
3 office conversions in the C-3-R District, which included (1) continuing to review projects
4 seeking upper level retail-to-office conversions on a case-by-case basis; (2) adopting a policy
5 that provides specific additional criteria that such projects must meet in order for approval; or
6 (3) initiating changes to the Planning Code to codify the criteria that such projects must meet
7 in order for approval. The 2017 OEWD Report is on file with the Clerk of the Board of
8 Supervisors in Board File No. _____ and is incorporated by reference.

9 (h) Since March 16, 2017, OEWD conducted additional research and analysis
10 related to lease rates, vacancies, and tenant space sizes specific to the C-3-R District and
11 found, in pertinent part, that Union Square retail lease rates have surpassed Citywide lease
12 rates, and that Union Square has higher lease rates than any part of the City in all classes of
13 office.

14 (i) At the February 22, 2018, Planning Commission hearing, OEWD reported on
15 these changes (2018 OEWD Report), and cited dramatic changes in the retail landscape over
16 the past 40 years in San Francisco and ongoing major restructuring in the national retail
17 industry. OEWD found that although San Francisco's retail economy has somewhat slowed,
18 retail stores and restaurants here have largely been insulated from national trends due to San
19 Francisco's many competitive advantages, including the City's strong local economy,
20 significant regional and international tourism, and granular approach to zoning controls aimed
21 at enhancing the City's existing retail corridors and zoning districts. The 2018 OEWD Report
22 is on file with the Clerk of the Board of Supervisors in Board File No. _____ and is
23 incorporated by reference.

24 (j) The Union Square area continues to be a world-class retail destination that
25 draws both tourists and Bay Area residents with its combination of walkable shopping and

dining, excellent transit access, and top-tier hospitality. A 2016 study showed that Union Square merchants generate approximately 37% of San Francisco's sales tax in general consumer goods, and 15% of all City sales tax dollars.

(k) To ensure that the City does not lose the opportunity to preserve the existing character of the C-3-R District, and to continue to develop and conserve the economic vitality of the City, it is necessary to consider the effects of conversions from Retail to Non-Retail Sales and Service use in the C-3-R District.

(l) On May 22, 2018, the Board of Supervisors passed Resolution No. 153-18, an interim controls resolution. In addition to the findings required by Planning Code Section 303, Resolution No. 153-18 requires the City to make additional findings regarding the viability of Retail in the C-3-R District to approve any conditional use permit seeking to convert from a Retail Use to Non-Retail Sales and Service Use. An applicant must also provide information regarding the vacancy and rental rates for Retail and Non-Retail Sales and Services Uses, and any other relevant information regarding neighborhood development, economic or demand changes in the C-3-R District. Resolution No. 153-18 became effective on June 1, 2018, and will expire 18 months from that date, or until the Board of Supervisors adopts permanent legislation regulating conversions from Retail to Non-Retail Sales and Service Use in the C-3-R District, whichever comes first.

(m) The Board of Supervisors hereby enacts permanent controls for Non-Retail Sales and Service Use in the C-3-R District, including conversions from Retail Use.

Section 3. The Planning Code is hereby amended by revising Section 210.2, to read as follows:

SEC. 210.2. C-3 DISTRICTS: DOWNTOWN COMMERCIAL.

Downtown San Francisco, a center for City, regional, national, and international commerce, is composed of five separate districts, as follows:

* * * *

C-3-R District: Downtown Retail. This District is a regional center for comparison shopper retailing and direct consumer services. It covers a compact area with a distinctive urban character, consists of uses with cumulative customer attraction and compatibility, and is easily traversed by foot. Like the adjacent Downtown Office District, this District is well-served by City and regional transit, with automobile parking best located at its periphery. Within the District, continuity of retail and consumer service uses is emphasized, with encouragement of pedestrian interest and amenities and minimization of conflicts between shoppers and motor vehicles. A further merging of this District with adjacent, related Districts is anticipated, partially through development of buildings which combine retailing with other functions.

* * * *

Table 210.2

ZONING CONTROL TABLE FOR C-3 DISTRICTS

Zoning Category	§ References	C-3-O	C-3-O(SD)	C-3-R	C-3-G	C-3-S
* * * *						
NON-RESIDENTIAL STANDARDS AND USES						
* * * *						
Sales and Service Category						
* * * *						
Non-Retail Sales and Service*	§ 102	P (1)	P (1)	<u>NP</u> (2)	P (1)	P (1)
Catering	§ 102	P	P	P	P	P
Design Professional	§ 102	P	P	<u>NP</u> (2)	P	P

Laboratory	§ 102	P	P	P	P	P
Life Science	§ 102	P	P	P	P	P
Storage, Commercial	§ 102	NP	NP	NP	NP	NP
Storage, Wholesale	§ 102	NP	NP	NP	NP	NP
Wholesale Sales	§ 102	P	P	P	P	P
* * * *						

* Not listed below.

(1) C ~~is~~ required if at or below the ground floor.

(2) P if located on floors one through three ~~the ground floor~~ and offers on-site services to the general public. ~~NP on the ground floor if it does not provide onsite services to the general public.~~ C ~~is~~ required if located on floors four through six and the use is larger than 5,000 gross square feet in size ~~or located above the ground floor.~~ P if located on floor seven and above.

In ~~the C-3-R District, in~~ addition to the criteria set forth in Section 303, a Conditional Use Authorization pursuant to this note approval shall be given upon a determination that the use will not detract from the District's primary function as an area for comparison shopper retailing and direct consumer services.

(3) C ~~R~~ required if operated on an open lot.

(4) Required to be in an enclosed building, NP if operated on open lot.

(5) C required if taller than 25 feet above roof, grade, or height limit depending on site or if within 1000 feet of an R District and includes a parabolic antenna with a diameter in excess of 3 meters or a composite diameter of antennae in excess of 6 meters. See definition in Section 102 for more information.

(6) C required for Formula Retail on properties in the C-3-G District with frontage on Market Street, between 6th Street and the intersection of Market Street, 12th Street, and Franklin Street.

1 (7) Construction of Accessory Dwelling Units may be permitted pursuant to Section
2 207(c)(4).

3
4 Section 4. Findings Regarding Park, Recreation, and Open Space Requirements in
5 the Union Square C-3-R Downtown Retail Zoning District.

6 (a) In addition to the findings in Section 2 of this ordinance, the Board of
7 Supervisors further finds that Union Square is both a neighborhood and open space attraction
8 within the heart of Downtown San Francisco that is an incredibly popular destination for San
9 Francisco residents, the regional San Francisco Bay Area, and for visitors and tourists from
10 around the world. Union Square consists of many of the City's finest shops and hotels and is
11 one of the strongest downtown retail districts in the country. The loss of retail space in the C-
12 3-R District will diminish the existing character of the Union Square area by reducing the
13 number of retailers, which may cause some shoppers to leave sooner than they might
14 otherwise if a greater density of retailers were present.

15 (b) Fundamental to the C-3-R District at the time of its creation was its emphasis on
16 a continuity of retail and consumer service uses, its ongoing encouragement of pedestrian
17 interest and amenities, and efforts to minimize conflicts between shoppers and motor
18 vehicles.

19 (c) The C-3-R District was created specifically to protect against conversions of
20 retail use to other non-retail uses. Although the retail landscape was different in the 1980s
21 when the Downtown Area Plan was initially crafted and conceived, the rapid growth of office
22 space was and remains a threat to existing retail space, particularly on the upper floors. In
23 furtherance of a dense, pedestrian-oriented retail environment, Downtown Area Plan Policy
24 3.3 requires City policymakers to prioritize retail service businesses in upper floor offices in
25 the retail district.

1 (d) The 2017 OEWD Report found that (1) rents for smaller retail spaces in the C-3-
2 R District had outpaced citywide rates, (2) space available for rent was at an all-time low, (3)
3 the C-3-R District continued to contribute a large portion of City sales tax revenue to the
4 economy, and (4) over the last 5 years, sales of General Consumer Goods had in fact grown
5 both in the C-3-R District and citywide. The 2017 OEWD Report also identified trends in the
6 retail industry, among them: (1) a shift away from the general department store model, (2) a
7 general desire for smaller “footprints”, and (3) an increase in retailers seeking to provide a
8 more targeted “lifestyle specific” consumer experience.

9 (e) Meanwhile, the market for leasing office space throughout San Francisco
10 continues to thrive, presenting external pressure on the competitiveness of retail space within
11 the C-3-R District. According to the Jones Lang Lasalle Office Outlook Report for Q1 2018,
12 leasing activity maintained its strong momentum from previous years, with tenants rushing to
13 lease space in new office developments in the City, even before construction is finished. That
14 report also found that San Francisco office tenants value spaces with creative and flexible
15 build-outs that are move-in ready, meaning many office tenants are willing to convert existing
16 retail spaces within the Downtown C-3-R to Office Use. The Jones Lang Lasalle Office
17 Outlook Report for Q1 2018 is on file with the Clerk of the Board of Supervisors in Board File
18 No. _____.

19 (f) Applicants continue to seek to convert retail space to office and other non-retail
20 space. The applications to convert existing retail space contribute to the rising rents for
21 existing retail space and limited amount of available retail space.

22 (g) The proposed conversion of retail to office space in the C-3-R District brings with
23 it new impacts on the public realm, by virtue of bringing new office workers to this vibrant
24 predominantly-retail area. When a space converts from retail to office, generally, there are
25 more office workers per square foot than retail workers per square foot.

1 (h) As office space is approved, either as new construction or by way of conversion,
2 public facilities will be more heavily and consistently used throughout the full day. This results
3 in a more intense use for public facilities due to the larger worker population. The stress on
4 these public facilities and the need for new and improved open space amenities and
5 infrastructure is anticipated to increase as the creation of new office space occurs in the
6 Downtown C-3-R.

7 (i) In 2012, the City contracted with Hausrath Economics Group to prepare the
8 Downtown San Francisco Park, Recreation, and Open Space Development Impact Fee
9 Nexus Study (Nexus Study). The Nexus Study examined the impacts of people living in new
10 housing and working in new buildings in downtown San Francisco and the resulting increase
11 in demand for park, recreation, and open space facilities created by the expected
12 development of several land uses, including housing, office, retail, hotel and institutional
13 development in the downtown area. The Nexus Study is on file with the Clerk of the Board of
14 Supervisors in Board File No. _____, and incorporated by reference.

15 (j) The Nexus Study examined development horizons through 2030 and found that
16 the downtown area is expected to accommodate a substantial amount of the population and
17 employment growth projected for San Francisco. The scenario reflects state, regional and
18 local policies directing new development to dense urban centers served by transit. Office
19 employment accounted for 75 percent of the total expected employment growth from 2005
20 through 2030.

21 (k) The Nexus Study found that new facilities and improvements to existing facilities
22 are required to accommodate additional demand for park, recreation and open space facilities
23 in order to maintain the current level of service. The Nexus Study found that any fee revenue
24 would not be used to correct existing standards, but instead would be used to maintain the
25 existing standards to meet the growing population and employment growth. If facility inventory

1 were not expended or improved to accommodate increased demand, then the level of service
2 would deteriorate as the increased activity associated with growth and new development
3 would occur within the confines of constrained existing facilities.

4 (l) The Nexus Study found that costs for park, recreation, and open space facilities
5 in the downtown area are higher than elsewhere in the City. The Nexus Study found that the
6 higher cost is driven by: (1) the higher cost of land in the downtown area attributable to the
7 limited amount of suitable open land, (2) space and locational restrictions that lead to higher
8 development costs, and (3) the need for more expensive improvements due to the density of
9 the existing development and intensity of expected use.

10 (m) According to the Nexus Study, park, recreation, and open space facilities are
11 critical components of a quality of life analysis because they sustain the social, physical and
12 mental health of residents and workers, and provide economic benefits as well. Adequate
13 open space provides essential relief from the density and congestion associated with
14 downtown high-rise development. The Nexus Study found that as development occurs,
15 additional park and open space facilities are needed to maintain the quality of urban
16 experience that makes downtown San Francisco an attractive place to do business, live, and
17 visit.

18 (n) The Board of Supervisors recognizes that the Union Square Park, Recreation,
19 and Open Space Fee is only one part of the City's overall strategy for addressing the need of
20 open space. The Downtown Park Fee is a longstanding commercial development impact fee,
21 initiated in 1985, which supports recreational space in the downtown area for the
22 neighborhood's daytime employee population. In adopting the Downtown Park Fee, the Board
23 of Supervisors recognized that continued office development downtown area increased the
24 daytime population and created a need for additional public park and recreation facilities. The
25 Downtown Park Fee is currently set at \$2 per square foot.

1 (o) The Board of Supervisors finds that park, recreation, and open space facilities
2 provide economic benefits, by sustaining the social, physical and mental health of residents,
3 visitors, and workers. New park, recreation, and open space facilities may also attract
4 shoppers to the retail core and offset any loss created by the conversion to office.

5 (p) The Board of Supervisors has reviewed the Nexus Study and finds that the
6 study supports the current requirements for the Union Square Park, Recreation, and Open
7 Space Fee. The Board of Supervisors finds that the Nexus Study: identifies the purpose of
8 the fee to mitigate impacts on the demand for park, recreation, and open space in the
9 downtown area, which includes the C-3-R District; identifies the facilities and improvements
10 that the fee would support; and demonstrates a reasonable relationship between the planned
11 new development and the use of the fee, the type of new development planned and the need
12 for facilities to accommodate growth, and the amount of the fee and the cost of facilities and
13 improvements.

14 (q) The Board of Supervisors finds that the Union Square Park, Recreation, and
15 Open Space Fee would fund new improvements required by new developments, and would
16 not be used to remedy existing deficiencies or used for maintenance or operation purposes.

17 (r) The Board of Supervisors finds that the Union Square Park, Recreation, and
18 Open Space Fee is similar to the existing Downtown Park Fee, and that the Nexus Study
19 establishes that the current requirements for both fees is less than the cost of mitigation
20 created by new office development. The City may also fund the cost of remedying existing
21 deficiencies through other public and private funds.

22
23 Section 5. The Administrative Code is hereby amended by adding section 10.100-354
24 and the Planning Code is hereby amended by revising sections 428, 428.1, 428.2, and 428.3
25 to read:

1 **SEC. 10.100-354. UNION SQUARE PARK, RECREATION, AND OPEN SPACE FUND.**

2 **(a) Establishment of Fund.** *The Union Square Park, Recreation, and Open Space Fund*
3 *(the “Fund”)* *is established as a category eight fund to receive any monies collected pursuant to the*
4 *Union Square Park, Recreation, and Open Space Fee, or donated to pay for City activities designed to*
5 *address park, recreation, or open space needs in the C-3-R Downtown Retail Zoning District.*

6 **(b) Use of Fund.** *Monies in the Fund shall be used exclusively by the Controller or his or*
7 *her designee (the “Controller”) to pay for new and improved facilities to meet the needs attributable to*
8 *new recreation, park, and open space users in the C-3-R Downtown Retail Zoning District.*

9 **(c) Administration of Fund.** *The Controller shall submit an annual written report to the*
10 *Board of Supervisors describing expenditures made from the Fund during the previous fiscal year.*

11
12 **SEC. 428. UNION SQUARE PARK, RECREATION, AND OPEN SPACE FEE.**

13 *Sections 428.1 through 428.3 hereinafter referred to as Section 428.1 et seq. set forth the*
14 *requirements and procedures for the Union Square Park, Recreation, and Open Space Fee.*

15
16 **SEC. 428.1 PURPOSE AND FINDINGS SUPPORTING UNION SQUARE PARK,**
17 **RECREATION, AND OPEN SPACE FEE.**

18 **(a) Purpose.** *The purpose of the Union Square Park, Recreation, and Open Space Fee is to*
19 *provide funding to increase the supply of park, recreation, and open space facilities to serve the needs*
20 *attributable to new office development in the C-3-R Downtown Retail Zoning District. The Board of*
21 *Supervisors hereby finds that the Union Square area, most of which is zoned as the C-3-R Downtown*
22 *Retail Zoning District, is a world-class retail destination that draws both tourists and Bay Area*
23 *residents with its combination of walkable shopping and dining, excellent transit access, and top-tier*
24 *hospitality. As new office development occurs, additional park, recreation, and open space facilities*
25

1 are needed to maintain the quality of urban experience that makes downtown San Francisco an
2 attractive place to do business, live, and visit.

3 (b) **Findings.** The Board of Supervisors has reviewed the Downtown San Francisco Park,
4 Recreation, and Open Space Development Impact Fee Nexus Study, prepared by Hausrath dated April
5 13, 2012 (“Nexus Study”), on file with the Clerk of the Board of Supervisors in File No. _____. In
6 accordance with the California Mitigation Fee Act, Government Code 66001(a), the Board of
7 Supervisors adopts the findings and conclusions of that study, and incorporates those findings and
8 conclusions by reference to support the imposition of the fees under this Section.

9
10 **SEC. 428.2. DEFINITIONS.**

11 See Section 401 of this Article.

12
13 **SEC. 428.3. APPLICATION OF UNION SQUARE PARK, RECREATION, AND OPEN**
14 **SPACE FEE.**

15 (a) **Application.** Section 428.1 et seq., shall apply to any office development project in the
16 C-3-R Downtown Retail Zoning District.

17 (b) **Amount of fee.** The applicable fee shall be \$4 per square foot.

18 (c) **Other Fee Provisions.** The Union Square Park, Recreation, and Open Space Fee shall
19 be subject to the provisions of this Article, including, but not limited to Sections 401 through 410.

20
21 Section 6. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the Mayor’s veto of the ordinance.

1 Section 7. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
5 additions, and Board amendment deletions in accordance with the “Note” that appears under
6 the official title of the ordinance.

7
8
9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: _____
12 AUSTIN M. YANG
 Deputy City Attorney

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