



# SAN FRANCISCO PLANNING DEPARTMENT

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## New Planning Code Summary: Interim Zoning Controls Conditional Use Authorization for Retail to Non-Retail Uses In the C-3-R Zoning District

**Amended Sections:** 210.2  
**Case Number:** N/A  
**Board File/Enactment #:** 180243 /153-18  
**Initiated by:** Supervisor Peskin  
**Effective Date:** June 1, 2018

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The Resolution imposes interim zoning controls requiring a Conditional Use Authorization, information to be submitted, and specific findings for any conversion from a Retail Use to a Non-Retail Use within the C-3-R (Downtown Retail) Zoning District.

### The Way It Was:

1. Establishing a Non-Retail Sales or Service above the ground floor that is greater than 5,000 square feet or not open to the public requires a Conditional Use Authorization. In addition to the regular CU findings, the commission must also find that the use will not “detract from the District’s primary function as an area for comparison shopper retailing and direct consumer services.”

### The Way It Is Now:

1. For 15 months as of the effective date, or until the adoption of permanent legislation regulating Retail to Non-Retail conversions, an applicant proposing to convert Retail to Non-Retail in the C-3-R must provide:
  - a) Information and data to the Planning Department about current Retail and Non-Retail use vacancy rates in the C-3-R Downtown Retail Zoning District;
  - b) Current (as of the time of the application) rental rates for Retail and Non-Retail Sales and Service uses based on knowledge of existing lease rental rates and advertised rental rates for both Retail and/or Non-Retail use categories and their sub-categories as set forth in Section 102 of the Planning Code;
  - c) A list of other properties in the C-3-R Downtown Retail Zoning District either owned or managed by the applicant, and available information about

- comparable and relevant rental rates, the principally permitted use(s) of such properties, any vacancies at those other properties, and, to the extent that vacancies exist, any evidence that the property owner or manager has advertised a lease at that property for an existing principally permitted use or any other use, including any publicly advertised terms of that rental; and
- d) Any other relevant neighborhood development, economic or demand changes in the C-3-R Downtown Retail Zoning District.
2. In addition to the findings required under Planning Code, Section 303, the City must make the following findings in order to approve any conditional use permit authorizing conversion of Retail use to Non-Retail Sales and Service use in the C-3-R Downtown Retail Zoning District:
- a) The change in use from Retail to Non-Retail Sales and Service will not detract from the area's primary function as an internationally renowned destination for comparison shopper retailing and direct consumer services;
  - b) a Retail or other principally-permitted use is not feasible at the site proposed for conversion, based on evidence that the applicant has openly advertised and solicited rental applications for a Retail or principally-permitted use at the location for a period of at least 18 months and no suitable lessees submitted an application or other response indicating a desire to use the space for a principally-permitted use;
  - c) any application for a proposed Non-Retail Sales and Service use of the site includes specific calculation of the gross floor area of the proposed Non-Retail use of the site includes specific calculation of the gross floor area of the proposed Non-Retail use and how any necessary independent and non-public access would be provided to the proposed Non-Retail use;
  - d) there is a lack of availability of property that is principally permitted for Non-Retail Sales and Service use citywide, including prospective availability of property principally permitted for Non-Retail uses based on five- and ten-year estimates of anticipated new construction, such that the supply of Office space is so constrained as to warrant the applied-for conversion; and

- e) whether rental rates for Non-Retail uses are comparable to rental rates for Retail uses within the C-3-R Downtown Retail Zoning District;
3. These interim controls shall not apply to any site within the C-3-R zoning district on the south side of, and south of, Market Street, nor to any site that has already obtained conditional use authorization from the Planning Commission for conversion of Retail uses to Non-Retail uses in the C-3-R Downtown Retail Zoning District on or prior to May 18, 2018.

**Link to Signed Legislation:**

<https://sfgov.legistar.com/View.ashx?M=F&ID=6285007&GUID=09B600E3-0A52-4C63-AE7C-2BF191380FC0>