File No. 101200 Committee Item No. 3
Board Item No.

# COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

**Committee:** Land Use and Economic Development **Date** September 27, 2010

**Board of Supervisors Meeting** **Date**

| Cmte | Board | |
|---|---|---|
| ☐ | ☐ | **Motion** |
| ☐ | ☐ | **Resolution** |
| ☒ | ☐ | **Ordinance** |
| ☐ | ☐ | **Legislative Digest** |
| ☐ | ☐ | **Budget Analyst Report** |
| ☐ | ☐ | **Legislative Analyst Report** |
| ☐ | ☐ | **Youth Commission Report** |
| ☐ | ☐ | **Introduction Form (for hearings)** |
| ☐ | ☐ | **Department/Agency Cover Letter and/or Report** |
| ☐ | ☐ | **MOU** |
| ☐ | ☐ | **Grant Information Form** |
| ☐ | ☐ | **Grant Budget** |
| ☐ | ☐ | **Subcontract Budget** |
| ☐ | ☐ | **Contract/Agreement** |
| ☐ | ☐ | **Form 126 – Ethics Commission** |
| ☐ | ☐ | **Award Letter** |
| ☐ | ☐ | **Application** |
| ☐ | ☐ | **Public Correspondence** |

| OTHER | | **(Use back side if additional space is needed)** |
|---|---|---|
| ☒ | ☐ | Planning Commission Resolution No. 18105 |
| ☒ | ☐ | Historic Preservation Commission Resolution No. 646 |
| ☒ | ☐ | Certificate of Determination, dtd 6/2/2010 |
| ☐ | ☐ | |
| ☐ | ☐ | |
| ☐ | ☐ | |
| ☐ | ☐ | |
| ☐ | ☐ | |
| ☐ | ☐ | |

**Completed by:** Alisa Somera **Date** September 24, 2010
**Completed by:** **Date**

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Planning Code—Preservation and Rehabilitation ~~and Maintenance~~ of Transfer Lots After Sale of Transferable Development Rights; Zoning Map and General Plan Map Amendments—680 California Street (Old St. Mary's Cathedral)]

**Ordinance amending Section 128 of the San Francisco Planning Code to require that proceeds from the sale of Transferable Development Rights (TDR) be spent on preservation and rehabilitation ~~and maintenance~~ of the Transfer Lot property, to establish reporting procedures regarding the preservation and rehabilitation ~~and maintenance~~, and to allow the sale of TDR from an individually landmarked building to any lot in a C-3 zoned district except Redevelopment Areas; amending the San Francisco Zoning Map by amending Zoning Use District Map ZN01 to change the use classification of 680 California Street (Old St. Mary's Cathedral), Block No. 0241, Lot Nos. 011 and 012 (the Property), from Chinatown Visitor Retail District to C-3-0 District and making conforming amendments to the Chinatown and Downtown Area Plans of the San Francisco General Plan; adopting findings, including environmental findings and findings of consistency with the General Plan and the Priority Policies of Planning Code Section 101.1.**

NOTE: Additions are *single-underline italics Times New Roman*; deletions are ~~*strike-through italics Times New Roman*~~. Board amendment additions are double-underlined; Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings.

A. Pursuant to San Francisco Charter Section 4.105 and Planning Code Section 340, any amendments to the General Plan shall first be considered by the Planning Commission and thereafter recommended for approval or rejection by the Board of Supervisors. On June 10, 2010 at a duly noticed public hearing, the Planning Commission in

Resolution No. 18105 found that the proposed General Plan amendments, as well as the proposed Planning Code amendment, zoning reclassification, and zoning map amendment were, on balance, consistent with the City's General Plan, as it is proposed for amendment, and with Planning Code Section 101.1(b). In addition, the Planning Commission recommended that the Board of Supervisors adopt the Planning Code amendment, zoning reclassification, zoning map amendment, and General Plan map amendments. A copy of said Resolution are on file with the Clerk of the Board of Supervisors in File No. 101200 and is incorporated herein by reference. The Board finds that the proposed Planning Code amendment, zoning reclassification, zoning map amendment, and General Plan map amendments are consistent with the City's General Plan, as proposed to be amended, and with Planning Code Section 101.1(b) for the reasons set forth in said Resolution.

B. Pursuant to Planning Code Section 302, the Board finds that the proposed Planning Code amendment, zoning reclassification, zoning map amendment, and General Plan amendments will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. 18105, which reasons are incorporated herein by reference as though fully set forth.

C. On June 2, 2010, at a duly noticed public hearing, the Historic Preservation Commission considered the proposed Planning Code amendment, zoning reclassification, zoning map amendment, and General Plan amendments and by Historic Preservation Commission Resolution No. 646 recommended that the Board of Supervisors adopt the Planning Code amendment, zoning reclassification, zoning map amendment, and General Plan map amendments. A copy of said Resolution are on file with the Clerk of the Board of Supervisors in File No. 101200 and is incorporated herein by reference.

D. Environmental Findings. The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental

Quality Act (California Public Resources Code section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 101200 and is incorporated herein by reference.

Section 2. The San Francisco Planning Code is hereby amended by amending Section 128, to read as follows:

**SEC. 128. TRANSFER OF DEVELOPMENT RIGHTS IN C-3 DISTRICTS.**

(a) Definitions.

(1) "Development Lot." A lot to which TDR may be transferred to increase the allowable gross floor area of development thereon beyond that otherwise permitted by Section 124.

(2) "Owner of Record." The owner or owners of record in fee.

(3) "Preservation Lot." A parcel of land on which is either (i) a Significant or Contributory building (as designated pursuant to Article 11); or (ii) a Category V Building that has complied with the eligibility requirement for transfer of TDR as set forth in Section 1109(c); or (iii) a structure designated a*n individual* landmark pursuant to Article 10 of this Code. The boundaries of the Preservation Lot shall be the boundaries of the Assessor's lot on which the building is located at the time the ordinance or, as to Section 1109(c), resolution, making the designation is adopted, unless boundaries are otherwise specified in the ordinance.

(4) "Transfer Lot." A Preservation Lot located in a C-3 District from which TDR may be transferred. A lot zoned P (public) may in no event be a Transfer Lot. unless a building on that lot is (i) owned by the City and County of San Francisco, and (ii) located in a P District adjacent to a C-3 District, and (iii) designated as an ~~*historical*~~ *individual* landmark ~~*by*~~ *pursuant to* Article 10 of this Code, ~~*or*~~ designated as a Category I Significant Building ~~*by*~~ *pursuant to* Article

11 of this Code, ~~and~~ *or* listed ~~as a National Historical Landmark~~ on the National *Register of* Historic~~al Register~~ *Places.*~~, and (iv) the TDR proceeds are used to finance, in whole or in part, a project to rehabilitate and restore the building in accordance with the Secretary of Interior standards.~~ For the purposes of Section 128(b), a lot zoned P which satisfies the criteria of this subsection (4) to qualify as a "Transfer Lot" shall be deemed to have an allowable gross floor area of 7.5:1 under Section 124.

(5) "Transferable Development Rights (TDR)." § Units of gross floor area which may be transferred, pursuant to the provisions of this Section and Article 11 of this Code, from a Transfer Lot to increase the allowable gross floor area of a development on a Development Lot.

(6) "Unit of TDR." One unit of TDR is one square foot of gross floor area.

(b) Amount of TDR Available for Transfer. The maximum TDR available for transfer from a Transfer Lot consists of the difference between (~~aa~~*i*) the allowable gross floor area permitted on the Transfer Lot by Section 124 and (~~bb~~*ii*) the gross floor area of the development located on the Transfer Lot.

(c) Eligibility of Development Lots and Limitation on Use of TDR on Development Lots. TDR may be used to increase the allowable gross floor area of a development on a Development Lot if the following requirements and restrictions are satisfied:

(1) *Transfer of Development Rights shall be limited to the following:*

(i) The Transfer Lot and the Development Lot are located in the same C-3 Zoning District~~,~~*;* or

(ii) the Transfer Lot is located in a C-3-O, or C-3-R District and the Development Lot is located in the C-3-O(SD) Special Development District; or

(iii) the Transfer Lot ~~*is a Preservation Lot that*~~ contains a Significant building and is located in the Extended Preservation District or a C-3-G or C-3-S District and the Development Lot is located in the C-3-O(SD) Special District~~,~~; or

(iv) the Transfer Lot is in a C-3-R District or a District designated C-3-O (SD) in the Yerba Buena Center Redevelopment Plan and is located in the Yerba Buena Center Redevelopment Project Area and the Development Lot is located in a C-3-O District; or

(v) the Transfer Lot is in a P District adjacent to a C-3 District and meets the requirements established in subsection (a)(4) above and the Development Lot is located in a C-3 District*; or*

*(vi) the Transfer Lot is located in any C-3 District and contains an individual landmark designated pursuant to Article 10 and the Development Lot is located in any C-3 District but not within a Redevelopment Agency Plan Area.*

(2) TDR may not be transferred for use on any lot on which is or has been located a Significant or Contributory building; provided that this restriction shall not apply if the designation of a building is changed to Unrated; nor shall it apply if the City Planning Commission finds that the additional space resulting from the transfer of TDR is essential to make economically feasible the reinforcement of a Significant or Contributory building to meet the standards for seismic loads and forces of the ~~*1975*~~ Building Code, in which case TDR may be transferred for that purpose subject to the limitations of this Section and Article 11, including Section 1111.6. Any alteration shall be governed by the requirements of Sections 1111 to 1111.6.

(3) Notwithstanding any other provision of this Section, development on a Development Lot is limited by the provisions of this Code, other than those on floor area ratio, governing the approval of projects, including the requirements relating to height, bulk, setback, sunlight access, and separation between towers, and any limitations imposed

pursuant to Section 309 review applicable to the Development Lot. The total allowable gross floor area of a development on a Development Lot may not exceed the limitation imposed by Section 123(c).

(d) Effect of Transfer of TDR.

(1) Transfer of TDR from a Transfer Lot permanently reduces the development potential of the Transfer Lot by the amount of the TDR transferred, except as provided in Section 124(f). In addition, transfer of TDR from a Preservation Lot containing a Contributory building or a*n individual* landmark designated pursuant to Article 10 causes such building to become subject to the same restrictions on demolition and alteration, and the same penalties and enforcement remedies, that are applicable to Significant ~~b~~Buildings Category I, as provided in Article 11.

(e) Procedure for Determining TDR Eligibility.

(1) In order to obtain a determination of whether a lot is a Transfer Lot and, if it is, of the amount of TDR available for transfer, the owner of record of the lot may file an application with the Zoning Administrator for a Statement of Eligibility. The application for a Statement of Eligibility shall contain or be accompanied by plans and drawings and other information which the Zoning Administrator determines is necessary in order to determine whether a Statement of Eligibility can be issued. Any person who applies for a Statement of Eligibility prior to expiration of the time for request of reconsideration of designation authorized in Section 1105 shall submit in writing a waiver of the right to seek such reconsideration.

(2) The Zoning Administrator shall, upon the filing of an application for a Statement of Eligibility and the submission of all required information, issue either a proposed Statement of Eligibility or a written determination that no TDR are available for transfer and shall mail that document to the applicant and to any other person who has filed with the Zoning Administrator a written request for a copy*, and shall post the proposed Statement of Eligibility or written*

*determination on the Planning Department website*. Any appeal of the proposed Statement of Eligibility or determination of noneligibility shall be filed with the Board of Permit Appeals within 20 days of the date of issuance of the document. If not appealed, the proposed Statement of Eligibility or the determination of noneligibility shall become final on the 21st day after the date of issuance. The Statement of Eligibility shall contain at least the following information: (i) the name of the owner of record of the Transfer Lot; (ii) the address, legal description and Assessor's Block and Lot of the Transfer Lot; (iii) the C-3 use district within which the Transfer Lot is located; (iv) ~~*whether the Transfer Lot is a Preservation Lot or Development Lot; (v) if a Preservation Lot,*~~ whether the Transfer Lot contains a Significant or Contributory building, a Category V building, or an Article 10 *individually designated* landmark; (v~~i~~) the amount of TDR available for transfer; and (vi~~i~~) the date of issuance.

(3) Once the proposed Statement of Eligibility becomes final, whether through lack of appeal or after appeal, the Zoning Administrator shall record the Statement of Eligibility in the Office of the County Recorder. The County Recorder shall be instructed to mail the original of the recorded document to the owner of record of the Transfer Lot and, if a copy of the document is presented at the time of the recordation, shall conform the copy and mail it to the Zoning Administrator.

(f) Cancellation of Eligibility.

(1) If reasonable grounds should at any time exist for determining that a building on a Preservation Lot may have been altered or demolished in violation of Articles 10 or 11, including Sections 1110 and 1112 thereof, the Zoning Administrator may issue and record with the County Recorder a Notice of Suspension of Eligibility for the affected lot and, in cases of demolition of a Significant or Contributory building, a notice that the restriction on the floor area ratio of a replacement building, pursuant to Section 1114, may be applicable and shall mail a copy of such notice to the owner of record of the lot. The notice shall provide that the

property owner shall have 20 days from the date of the notice in which to request a hearing before the Zoning Administrator in order to dispute this initial determination. If no hearing is requested, the initial determination of the Zoning Administrator is deemed final on the twenty-first day after the date of the notice, unless the Zoning Administrator has determined that the initial determination was in error.

(2) If a hearing is requested, the Zoning Administrator shall notify the property owner of the time and place of hearing, which shall be scheduled within 21 days of the request, shall conduct the hearing, and shall render a written determination within 15 days after the close of the hearing. If the Zoning Administrator shall determine that the initial determination was in error, that officer shall issue and record a Notice of Revocation of Suspension of Eligibility. Any appeal of the determination of the Zoning Administrator shall be filed with the Board of Permit Appeals within 20 days of the date of the written determination following a hearing or, if no hearing has been requested, within 20 days after the initial determination becomes final.

(3) If after an appeal to the Board of Permit Appeals it is determined that an unlawful alteration or demolition has occurred, or if no appeal is taken of the determination by the Zoning Administrator of such a violation, the Zoning Administrator shall record in the Office of the County Recorder a Notice of Cancellation of Eligibility for the lot, and shall mail to the property owner a conformed copy of the recorded Notice. In the case of demolition of a Significant or Contributory Building, the Zoning Administrator shall record a Notice of Special Restriction noting the restriction on the floor area ratio of the Preservation Lot pursuant to the provisions of Section 1114, and shall mail to the owner of record a certified copy of the Notice. If after an appeal to the Board of Permit Appeals it is determined that no unlawful alteration or demolition has occurred, the Zoning Administrator shall issue and record a Notice of Revocation of Suspension of Eligibility and, if applicable, a Notice of Revocation of the Notice

of Special Restriction pursuant to Section 1114, and shall mail conformed copies of the recorded notices to the owner of record.

(4) No notice recorded under this Section 128(f) shall affect the validity of TDR that have been transferred from the affected Transfer Lot in compliance with the provisions of this Section prior to the date of recordation of such notice, whether or not such TDR have been used.

(g) Procedure for Transfer of TDR.

(1) TDR from a single Transfer Lot may be transferred as a group to a single transferee or in separate increments to several transferees. TDR may be transferred either directly from the original owner of the TDR to the owner of a Development Lot or to persons, firms or entities who acquire the TDR from the original owner of the TDR and hold them for subsequent transfer to other persons, firms, entities or to the owners of a Development Lot or Lots.

(2) When TDR are transferred, they shall be identified in each Certificate of Transfer by a number. A single unit of TDR transferred from a Transfer Lot shall be identified by the number "1." Multiple units of TDR transferred as a group for the first time from a Transfer Lot shall be numbered consecutively from "1" through the number of units transferred. If a fraction of a unit of TDR is transferred, it shall retain its numerical identification. (For example, if 5,000-1/2 TDR are transferred in the initial transfer from the Transfer Lot, they would be numbered "1 through 5,000 and one-half of 5,001.") TDR subsequently transferred from the Transfer Lot shall be identified by numbers taken in sequence following the last number previously transferred. (For example if the first units of gross floor area transferred from a Transfer Lot are numbered 1 through 10,000, the next unit transferred would be number 10,001.) If multiple units transferred from a Transfer Lot are subsequently transferred separately in portions, the seller shall identify the TDR sold by numbers which correspond to the numbers by which they

were identified at the time of their transfer from the Transfer Lot. (For example, TDR numbered 1 through 10,000 when transferred separately from the Transfer Lot in two equal portions would be identified in the two Certificates of Transfer as numbers 1 through 5,000 and 5,001 through 10,000.) Once assigned numbers, TDR retain such numbers for the purpose of identification through the process of transferring and using TDR. The phrase "numerical identification," as used in this section, shall mean the identification of TDR by numbers as described in this Subsection.

(3) Transfer of TDR from the Transfer Lot shall not be valid unless (i) a Statement of Eligibility has been recorded in the Office of the County Recorder prior to the date of recordation of the Certificate of Transfer evidencing such transfer and (ii) a Notice of Suspension of Eligibility or Notice of Cancellation of Eligibility has not been recorded prior to such transfer or, if recorded, has thereafter been withdrawn by an appropriate recorded Notice of Revocation or a new Statement of Eligibility has been thereafter recorded.

(4) Transfer of TDR, whether by initial transfer from a Transfer Lot or by a subsequent transfer, shall not be valid unless a Certificate of Transfer evidencing such transfer has been prepared and recorded. The Zoning Administrator shall prepare a form of Certificate of Transfer and all transfers shall be evidenced by documents that are substantially the same as the Certificate of Transfer form prepared by the Zoning Administrator, which form shall contain at least the following:

(i) For transfers from the Transfer Lot only:

(aa) Execution and acknowledgment by the original owner of TDR as the transferor(s) of the TDR; and

(bb) Execution and acknowledgment by the Zoning Administrator; and

(cc) A notice, prominently placed and in all capital letters, preceded by the underlined heading "Notice of Restriction," stating that the transfer of TDR from the Transfer

Lot permanently reduces the development potential of the Transfer Lot by the amount of TDR transferred, with reference to the provisions of this Section.

(ii) For all transfers:

(aa) The address, legal description, Assessor's Block and Lot, and C-3 use district of the Transfer Lot from which the TDR originates; and

(bb) The amount of TDR transferred; and

(cc) Numerical identification of the TDR being transferred; and

(dd) The names and mailing addresses of the transferors and transferees of the TDR; and

(ee) Execution and acknowledgment by the transferors and transferees of the TDR; and

(ff) A reference to the Statement of Eligibility, including its recorded instrument number and date of recordation, and a recital of all previous transfers of the TDR, including the names of the transferors and transferees involved in each transfer and the recorded instrument number and date of recordation of each Certificate of Transfer involving the TDR, including the transfer from the Transfer Lot which generated the TDR.

(5) When a Certificate of Transfer for the transfer of TDR from a Transfer Lot is presented to the Zoning Administrator for execution, that officer shall not execute the document if a transfer of the TDR would be prohibited by any provision of this Section or any other provision of this Code. The Zoning Administrator shall, within five business days from the date that the Certificate of Transfer is submitted for execution, either execute the Certificate of Transfer or issue a written determination of the grounds requiring a refusal to execute the Certificate.

(6) Each duly executed and acknowledged Certificate of Transfer containing the information required herein shall be presented for recordation in the Office of the County

Recorder and shall be recorded by the County Recorder. The County Recorder shall be instructed to mail the original Certificate of Transfer to the person and address designated thereon and shall be given a copy of the Certificate of Transfer and instructed to conform the copy and mail it to the Zoning Administrator.

(h) Certification of Transfer of TDR for a Project on a Development Lot.

(1) When the use of TDR is necessary for the approval of a building permit for a project on a Development Lot, the Superintendent of the Bureau of Building Inspection shall not approve issuance of the permit unless the Zoning Administrator has issued a written certification that the owner of the Development Lot owns the required number of TDR. When the transfer of TDR is necessary for the approval of a site permit for a project on a Development Lot, the Zoning Administrator shall impose as a condition of approval of the site permit the requirement that the Superintendent of the Bureau of Building Inspection shall not issue the first addendum to the site permit unless the Zoning Administrator has issued a written certification that the owner of the Development Lot owns the required number of TDR.

(2) In order to obtain certification as required in Section 128(h)(1), the permit applicant shall present to the Zoning Administrator:

(i) Information necessary to enable the Zoning Administrator to prepare the Notice of Use of TDR, which information shall be at least the following:

(aa) The address, legal description, Assessor's Block and Lot, and zoning classification of the Development Lot;

(bb) The name and address of the owner of record of the Development Lot;

(cc) Amount and numerical identification of the TDR being used;

(dd) A certified copy of each Certificate of Transfer evidencing transfer to the owner of the Development Lot of the TDR being used; and

(ii) A report from a title insurance company showing the holder of record of the TDR to be used, all Certificates of Transfer of the TDR, and all other matters of record affecting such TDR. In addition to showing all such information, the report shall guarantee that the report is accurate and complete and the report shall provide that in the event that its guarantee or any information shown in the report is incorrect, the title company shall be liable to the City for the fair market value of the TDR at the time of the report. The liability amount shall be not less than $10,000 and no more than $1,000,000, the appropriate amount to be determined by the Zoning Administrator based on the number of TDR being used.

(iii) An agreement whereby the owner of the Development Lot shall indemnify the City against any and all loss, cost, harm or damage, including attorneys' fees, arising out of or related in any way to the assertion of any adverse claim to the TDR, including any loss, cost, harm or damage occasioned by the passive negligence of the City and excepting only that caused by the City's sole and active negligence. The indemnity agreement shall be secured by a ~~*first deed of trust on the Development Lot*~~ *financial balance sheet certified by an auditor or a corporate officer showing that the owner has assets equal to or greater than the value of the TDR*, or other security satisfactory to ~~*the Department of City*~~ Planning *Department* and the City Attorney.

(3) If the Zoning Administrator determines that the project applicant has complied with the provisions of Subsection (h)(2) and all other applicable provisions of this Section, and that the applicant is the owner of the TDR, that officer shall transmit to the Superintendent of the Bureau of Building Inspection, with a copy to the project applicant, written certification that the owner of the Development Lot owns the TDR. Prior to transmitting such certification, the Zoning Administrator shall prepare a document entitled Notice of Use of TDR stating that the TDR have been used and may not be further transferred, shall obtain the execution and acknowledgment on the Notice of the owner of record of the Development Lot, shall execute and acknowledge the Notice, shall record it in the Office of the County Recorder, and shall

mail to the owner of record of the Development Lot a conformed copy of the recorded Notice. If the Zoning Administrator determines that the project applicant is not the owner of the TDR, or has not complied with all applicable provisions of this Section, that determination shall be set forth in writing along with the reasons therefore. The Zoning Administrator shall either transmit certification or provide a written determination that certification is inappropriate within 10 business days after the receipt of all information required pursuant to Subsection (h)(2).

(i) Cancellation of Notice of Use; Transfer from Development Lot.

(1) The owner of a Development Lot for which a Notice of Use of TDR has been recorded may apply for a Cancellation of Notice of Use if (i) the building permit or site permit for which the Notice of Use was issued expires or was revoked or cancelled prior to completion of the work for which such permit was issued and the work may not be carried out; or (ii) any administrative or court decision is issued or any ordinance or initiative or law is adopted which does not allow the applicant to make use of the permit; or (iii) a portion or all of such TDR are not used.

(2) If the Zoning Administrator determines that the TDR have not been and will not be used on the Development Lot based on the reasons set forth in subsection (i)(1), the Zoning Administrator shall prepare the Cancellation of Notice of Use of TDR. If only a portion of the TDR which had been acquired are not being used, the applicant may identify which TDR will not be used and the Cancellation of Notice of Use of TDR shall apply only to those TDR. The Zoning Administrator shall obtain on the Cancellation of Notice of Use of TDR the signature and acknowledgment of the owner of record of the Development Lot as to which the Notice of Use of TDR was recorded, shall execute and acknowledge the document, and shall record it in the office of the County Recorder.

(3) Once a Cancellation of Notice of Use of TDR has been recorded, the owner of the Development Lot may apply for a Statement of Eligibility in order to transfer the TDR

identified in that document. The procedures and requirements set forth in this Section governing the transfer of TDR shall apply to the transfer of TDR from the owner of a Development Lot after a Notice of Use has been filed, except for the provisions of this Section permanently restricting the development potential of a Transfer Lot upon the transfer of TDR; provided, however, that the district or districts to which the TDR may be transferred shall be the same district or districts to which TDR could have been transferred from the Transfer Lot that generated the TDR.

(j) Erroneous Notice of Use; Revocation of Permit. If the Zoning Administrator determines that a Notice of Use of TDR was issued or recorded in error, that officer may direct the Superintendent of the Bureau of Building Inspection to suspend any permit issued for a project using such TDR, in which case the Superintendent shall comply with that directive. The Zoning Administrator shall thereafter conduct a noticed hearing in order to determine whether the Notice of Use of TDR was issued or recorded in error. If it is determined that the Notice of Use of TDR was issued or recorded in error, the Superintendent of the Bureau of Building Inspection shall revoke the permit; provided, however, that no permit authorizing such project shall be revoked if the right to proceed thereunder has vested under California law. If it is determined that the Notice of Use of TDR was not issued or recorded in error, the permit shall be reinstated.

(k) Effect of Repeal or Amendment. TDR shall convey the rights granted herein only so long and to the extent as authorized by the provisions of this Code. Upon repeal of such legislative authorization, TDR shall there after convey no rights or privileges. Upon amendment of such legislative authorization, TDR shall thereafter convey only such rights and privileges as are permitted under the amendment. No Statement of Eligibility shall convey any right to use, transfer or otherwise utilize TDR if the maximum floor area ratio for the Transfer Lot is reduced after the Statement of Eligibility is issued.

*(l) Preservation*, and *Rehabilitation*, ~~and Maintenance~~ *Requirements for Transfer Lots.*

*(1) Any net proceeds from the sale of TDR sold after July 1, 2010 shall first be used to pay for or finance*, or make payment on any loans used to finance, *the preservation*, ~~and~~/or *rehabilitation*, ~~and ongoing maintenance~~ *of the building on the Transfer Lot*, ~~as well as~~ related to any mandatory seismic strengthening or retrofit work, work required to comply with disability access or life safety requirements, or any work *to correct any* ~~outstanding~~ *Notices of Violation* outstanding at the time of the Certificate of Transfer. *Such work* ~~may include, but is not limited to, seismic strengthening or retrofit, work required to comply with disability access or life safety requirements, and work necessary to insure the long-term maintenance of the building. All such work~~ *shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties.*

*(2) Prior to the issuance of the Certificate of Transfer, the owner of the Transfer Lot shall submit a report to the Zoning Administrator containing* ~~the following information~~*: (i)* ~~legal documents of sale of the TDR showing the sale price of the TDR; (ii)~~ *a report detailing the preservation*, ~~and~~ and *rehabilitation* ~~and maintenance~~ *work* proposed *to be done to the Transfer* ~~Property~~ Lot per subsection (1) above, ~~including an itemized list of the cost of the work; (iii)~~ (ii) *a construction schedule*; ~~(iv) copies of any permits obtained for the work; and (v)~~ or *any such other documentation as the Zoning Administrator may require* ~~to determine compliance with the requirements of this subsection 128(l)~~; and (iii) a plan outlining work for ongoing maintenance of the Building. The Zoning Administrator shall act on the Certificate of Transfer Application and issue the Certificate of Transfer within thirty days of a complete submittal. the requirements of this subsection shall apply only to the initial transfer of TDR from the Transfer Lot and not to any subsequent transfer.

*(3) Within one year of the sale of TDR, the owner of the Transfer* Lot ~~Property~~ *shall submit a report to the Zoning Administrator showing completion of all required preservation*, ~~and~~ and

*rehabilitation* ~~and maintenance~~ *work. Such report shall include: (i) information detailing the work completed; (ii) copies of all permits obtained for the work, including any Certificates of Appropriateness or Permits to Alter; (iii) any inspection reports or other documentation from the Department of Building* Inspection *showing completion of the work; (iv) itemized receipts of payment for work performed; and (v) any such other documentation as the Zoning Administrator may require to determine compliance with the requirements of this subsection 128(l). The deadline for completion of the work and submittal of this report may be extended at the discretion of the Zoning Administrator upon application of the owner and only upon a showing that the owner has diligently pursued all required permits and completion of the work.*

*(4) Failure to comply with the requirements of this subsection (l), including all reporting requirements, shall be grounds for enforcement under this Code, including but not limited to under Sections 176 and 176.1. Penalties for failure to comply may include, but shall not be limited to, a lien on the Transfer Property equal to the sale price of the TDR sold.*

Section 3. In accordance with Planning Code Sections 106 and 302, the following changes are hereby adopted as amendments to Zoning Use District Map ZN01 of the Zoning Map of the City and County of San Francisco:

| Description of Property | Use District to be Superseded | Use District Hereby Approved |
|---|---|---|
| Assessor's Block No. 0241, Lots Nos. 011 and 012 | Chinatown Visitor Retail (CVR) | *C-3-O* |

Section 4. The Board of Supervisors hereby approves the following amendment to the Chinatown Land Use and Density Plan of the Chinatown Area Plan of the General Plan of the City and County of San Francisco:

Assessor's Block No. 0241, Lots Nos. 011 and 012 are hereby removed from the Chinatown Land Use and Density Plan Map and are no longer zoned Chinatown Visitor Retail District (CVRD).

Section 5. The Board of Supervisors hereby approves the following amendment to the Downtown Land Use and Density Plan of the Downtown Area Plan of the General Plan of the City and County of San Francisco:

Assessor's Block No. 0241, Lots Nos. 011 and 012 are hereby added to the Downtown Land Use and Density Plan Map as C-3-O.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
Marlena G. Byrne
Deputy City Attorney

# SAN FRANCISCO
# PLANNING DEPARTMENT

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
**415.558.6378**

Fax:
**415.558.6409**

Planning
Information:
**415.558.6377**

June 18, 2010

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

Re: **Transmittal of Planning Department Case Number 2009.1180TZM:**
**660-680 California Street, aka Old St. Mary's Church, Landmark #2**
**T Case: Amending Section 128 – Transfer of Development Rights**
**Z Case: Rezoning 660-680 California Street**
**M Case: Amendments to the Chinatown & Downtown Elements of General Plan**

**Planning Commission Recommendation:** ***Approval***
**Historic Preservation Commission Recommendation:** ***Approval with Modifications***



Dear Ms. Calvillo,

On May 20th, the San Francisco Planning Commission (hereinafter "Planning Commission") conducted a duly noticed public hearing to initiate project-sponsored proposed amendments to the General Plan, Zoning Map, and Planning Code.

On June 2nd, the San Francisco Historic Preservation Commission (hereinafter "HPC") conducted a duly noticed public hearing to consider the proposed amendments.

On June 10th, the Planning Commission conducted a duly noticed public hearing to consider the proposed amendments.

The proposed Ordinance would do the following: amend San Francisco Planning Code Section 315 et all, to do the following:

1. Planning Code Text Amendment: Proposal would amend Section 128 (Transfer of Development Rights in C-3 Districts) to require that the net proceeds from the sale of TDR after July 1, 2010 be first used to pay for or finance the preservation, rehabilitation, and/or maintenance of the building on the Transfer Lot, as well as to correct any City Notices of Violation(s); to allow the transfer of TDR from a parcel that is an individual landmark pursuant to Article 10 and located within the C-3 District to a Development Lot that is located in any C-3 District but is not located within a Redevelopment Agency Plan Area; and to establish "Maintenance and Repair Requirements for Transfer Lots", which will include

mandating that proceeds from the sale of TDR after July 1, 2010 be used to correct any city violations, and for property owners submit a work plan/maintenance report to the Department.

2. San Francisco Zoning Map Amendment: Proposal would amend Zoning Map ZN01 to rezone the parcel on block 0241, lots 011 and 012 (660-680 California Street, aka Old St. Mary's Church) from CVR (Chinatown Visitor Retail) to C-3-O (Downtown Commercial, Office).

3. General Plan Amendment: Proposal would make conforming amendments to the Chinatown and Downtown Area Plans to reflect the proposed rezoning.

The proposed amendments received a General Rule Exclusion under the California Environmental Quality Act Section 15061(b)(3) on June 2, 2010.

**At the June 10th Planning Commission hearing, the Commission voted to recommend approval of the proposed Ordinance.**

**At the June 2nd HPC hearing, the Commission voted to recommend approval with modifications of the proposed Ordinance.**

Please find attached documents relating to both Commission's action. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

John Rahaim
Director of Planning

Attachments (one copy of the following):
Planning Commission Resolution No. 18092 – Initiating proposed Amendments
Planning Commission Resolution No. 18105
Historic Preservation Commission Resolution No. 646
Proposed Ordinance
Exclusion from Environmental Review Document
Planning Commission Executive Summary and attachments for Case No. 2009.1180TZM

SAN FRANCISCO
**PLANNING DEPARTMENT**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
**415.558.6378**

Fax:
**415.558.6409**

Planning
Information:
**415.558.6377**

# Planning Commission Resolution No. 18105

## Planning Code Text Change, Zoning Map Amendment, and General Plan Amendment

**HEARING DATE: JUNE 10, 2010, INITIATION HEARING DATE : MAY 20, 2010**

| | |
|---|---|
| *Project Name:* | 660-680 California Street, aka Old St. Mary's Church, Landmark #2<br>T Case: Amending Section 128 – Transfer of Development Rights<br>Z Case: Rezoning 660-680 California Street<br>M Case: Amendments to the Chinatown & Downtown Elements of General Plan |
| *Case Number:* | 2009.1180TZM |
| *Initiated by:* | Luce Forward Hamilton & Scripps LLP / Filed 12/22/09 |
| *Staff Contact:* | Tara Sullivan, Legislative Affairs<br>tara.sullivan@sfgov.org, 415-558-6257 |
| *Reviewed by:* | AnMarie Rodgers, Manager of Legislative Affairs<br>anmarie.rodgers@sfgov.org, 415-558-6395 |
| *Recommendation:* | **Recommend Approval** |

**RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 128 (TRANSFER OF DEVELOPMENT RIGHTS IN C-3 DISTRICTS) TO REQUIRE THAT THE NET PROCEEDS FROM THE SALE OF TDR AFTER JULY 1, 2010 BE FIRST USED TO PAY FOR OR FINANCE THE PRESERVATION, REHABILITATION, AND/OR MAINTENANCE OF THE BUILDING ON THE TRANSFER LOT, AS WELL AS TO CORRECT ANY CITY NOTICES OF VIOLATION(S); AND ALLOW THE TRANSFER OF TDR FROM A PARCEL THAT IS AN INDIVIDUAL LANDMARK PURSUANT TO ARTICLE 10 AND LOCATED WITHIN THE C-3 DISTRICT TO A DEVELOPMENT LOT THAT IS LOCATED IN ANY C-3 DISTRICT BUT IS NOT LOCATED WITHIN A REDEVELOPMENT AGENCY PLAN AREA; AND ESTABLISH "MAINTENANCE AND REPAIR REQUIREMENTS FOR TRANSFER LOTS", WHICH WILL INCLUDE MANDATING THAT PROCEEDS FROM THE SALE OF TDR AFTER JULY 1, 2010 BE USED TO CORRECT ANY CITY VIOLATIONS, AND FOR PROPERTY OWNERS SUBMIT A WORK PLAN/MAINTENANCE REPORT TO THE DEPARTMENT; TO AMEND ZONING MAP SHEET ZN01 TO RECLASSIFY BLOCK 0241, LOTS 011 & 012, FROM CVR (CHINATOWN VISITOR RETAIL ) DISTRICT TO A C-3-O (DOWNTOWN OFFICE) DISTRICT; MAKING CONFORMING AMENDMENTS TO THE CHINATOWN AND DOWNTOWN AREA PLANS OF THE SAN FRANCISCO GENERAL PLAN; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101**

## PREAMBLE

Whereas, on December 30, 2009, Luce Forward, on behalf of The Roman Catholic Archbishop of San Francisco, applied to the Planning Department for a Planning Code text change and a Zoning Map amendment under Case Number 2009.1180TZ; and

Whereas, the proposed General Plan amendments could make conforming amendments to the Chinatown and Downtown Area Plans to reflect the proposed rezoning; and

Whereas, the proposed San Francisco map change would amend Zoning Map ZN01 to rezone the parcel on block 0241, lots 011 and 012 (660-680 California Street, aka Old St. Mary's Church) from CVR (Chinatown Visitor Retail) to C-3-O (Downtown Commercial, Office); and

Whereas, the proposed Planning Code text change would amend the Planning Code by amending Section 128 (Transfer of Development Rights in C-3 Districts) to require that the net proceeds from the sale of TDR after July 1, 2010 be first used to pay for or finance the preservation, rehabilitation, and/or maintenance of the building on the Transfer Lot, as well as to correct any City Notices of Violation(s); to allow the transfer of TDR from a parcel that is an individual landmark pursuant to Article 10 and located within the C-3 District to a Development Lot that is located in any C-3 District but is not located within a Redevelopment Agency Plan Area; and to establish "Maintenance and Repair Requirements for Transfer Lots", which will include mandating that proceeds from the sale of TDR after July 1, 2010 be used to correct any city violations, and for property owners submit a work plan/maintenance report to the Department; and

Whereas, on May 20, 2010, the San Francisco Planning Commission (hereinafter "Commission") passed Resolution No. 18092, initiating amendments to the General Plan, Zoning Map, and Planning Code related to the proposed project; and

Whereas, on June 10, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

Whereas, the proposed Ordinance received a General Rule Exclusion on June 2, 2010, pursuant to the California Environmental Quality Act; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends *approval of the proposed ordinance* and adopts the attached Draft Resolution to that effect.

## 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:

1. With regard to the proposed General Plan Amendment:

2. The proposed amendment to the Chinatown Element of the General Plan is minor in scope and will not impact the remainder of this Element, as only one parcel will be rezoned.

3. The proposed amendment to the Downtown Element of the General Plan is minor in scope and will not impact the remainder of this Element. It will also provide for additional Transfer of Development Rights to be utilized by other properties in qualifying C-3 zoning districts.

4. With regard to the proposed Zoning Map Amendment:

5. The Old St. Mary's Church is located one lot to the west of the C-3-O Zoning District and integrating this lot into the commercial zoning will not have a negative effect on the mixed use Chinatown neighborhood, as it already contains a mix of commercial and residential uses.

6. There are no proposed changes in use for the Church property, as it will continue serving the community with religious and community services.

7. The proposed zoning will enable Old St. Mary's to participate in San Francisco's Transfer of Development Rights Program pursuant to Section 128, thus enabling the preservation of this significant individual Landmark.

8. With regard to the proposed amendments to Planning Code Section 128:

9. Section 128 was put into the Planning Code in September 1985 when the Downtown Element of the General Plan was adopted. TDRs are a preservation tool, meant to incentivize owners of historic properties to preserve and maintain them in exchange for a monetary gain from the unused development rights on the parcel.

10. The transfer of development rights are permitted only in the C-3 zoned districts, which are located downtown and along Market Street .

11. The Transfer Lots are limited. This was intended so that most of the TDRs would be sold to parcels that were located south of Market Street, where the City, in its Downtown Plan, had identified as being the

expansion of the Financial District. For the past 20+ years, most of the TDRs have been transferred to those parcels, which have resulted in the development of several office buildings, Yerba Buena Center, and other large-scale projects.

12. It has come to the attention of the Commission that the strict limitations of where TDRs can be sold are restricting the preservation of many buildings, especially as the TDR market has matured. That is, there are buildings that would like to sell their TDR to enable the preservation and rehabilitation of the historic structure, but because of the transfer restrictions, cannot locate a buyer of them because there are no available lots within the permitted C-3 zoning areas. They are stuck in limbo – the buildings are in need of the preservation funds but cannot utilize a key preservation tool.

13. The Commission has reviewed the TDR system and believes that permitting the 44 designated individual Landmarks to transfer their development rights to any parcel in the C-3 zoning district will enable these significant buildings to be preserved, rehabilitated, and maintained. It will help fund the mandated seismic upgrades to occur and any City violations (if applicable) to be corrected. Further, the Department believes that it will act as an incentive to designate more buildings under Article 10, which will then be able to have more flexibility in where the TDRs can be sold.

14. In addition to limiting the sale of TDRs to any C-3 zoning district to individual Landmarks, the Department believes that additional controls to prevent the sale of these TDRs (the 44 individual Landmarks) to parcels that are under Redevelopment Agency control will ensure that those developments in most need of TDRs will receive them.

15. The Commission believes that it is good practice to require that proceeds from the sale of TDR be first used to preserve, rehabilitate, and maintain the historic property. This will apply to the sale of TDR after July 1, 2010 (the beginning of the next CCSF fiscal year) and to all properties, not just the individual Landmarks. This follows City policies in place for other preservation programs, such as the Mills Act Historical Property Contract Program.

16. Therefore, the Commission recommends ***approval of the proposed Ordinance.***

17. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. URBAN DESIGN ELEMENT

THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.

GOALS

*The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.*

OBJECTIVE 1
EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.3
Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2
CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4
Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5
Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

POLICY 2.7
Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

II. CHINATOWN AREA PLAN
THE CHINATOWN AREA PLAN SEEKS TO PROTECT THE SOCIAL AND ECONOMIC CHARACTERISTICS OF CHINATOWN, THE STANDARD OF LIVING SPACE FOR THE LARGELY ELDERLY OR IMMIGRANT POPULATION, AND THE SUSTAINABILITY OF RESOURCES INCLUDING SHOPPING AND SOCIAL AGENCIES TO CONTINUE TO SERVE THIS POPULATION.

OBJECTIVE 1
PRESERVE THE DISTINCTIVE URBAN CHARACTER, PHYSICAL ENVIRONMENT AND CULTURAL HERITAGE OF CHINATOWN.

POLICY 1.4
Protect the historic and aesthetic resources of Chinatown.

OBJECTIVE 2
RETAIN AND ENFORCE CHINATOWN'S MUTUALLY SUPPORTIVE FUNCTIONS AS NEIGHBORHOOD, CAPITAL CITY AND VISITOR ATTRACTION.

III. DOWNTOWN ELEMENT
THE DOWNTOWN PLAN GROWS OUT OF AN AWARENESS OF THE PUBLIC CONCERN IN RECENT YEARS OVER THE DEGREE OF CHANGE OCCURRING DOWNTOWN — AND OF THE OFTEN CONFLICTING CIVIC OBJECTIVES BETWEEN FOSTERING A VITAL ECONOMY

AND RETAINING THE URBAN PATTERNS AND STRUCTURES WHICH COLLECTIVELY FOR THE PHYSICAL ESSENCE OF SAN FRANCISCO.

**OBJECTIVE 1**
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

**OBJECTIVE 12**
CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

**Policy 12.1**
Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

*Amending the Chinatown and Downtown Area Plans to reflect the rezoning is consistent with the overall policies of the General Plan because it will help facilitate the protection and maintenance of a significant individual Landmark and will preserve the distinctive urban character and aesthetic environment of Chinatown. It is also consistent with the goals of the Downtown Plan in that it will enable the building to sell TDRs, which will help preserve a resource that provides continuity with San Francisco's past while providing a mechanism for development of office/mixed use space in the Downtown core.*

*Rezoning Old St. Mary's Church to C-3-O will enable this significant individual Landmark to participate in the TDR program, with the proceeds going into the seismic upgrades to the building.*

*The goal of the proposed Ordinance is to strengthen and streamline the Transfer of Development Rights (TDR) procedures. In doing so, it will provide clarity and certainty to the public, provide additional incentive for property owners to designate buildings individual Landmarks, and ensure that monies are used to preserve, rehabilitate, and maintain historic buildings. TDRs are a preservation tool, meant to incentivize owners of historic properties to preserve and maintain them in exchange for a monetary gain from the unused development rights on the parcel, which this Ordinance will facilitate.*

18. The proposed Ordinance is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.*

B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed Ordinance will not impact existing housing and neighborhood character.*

C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed Ordinance will help enhance the City's supply of affordable housing by allowing for TDRs to be transferred to a larger number of parcels in the C-3 Districts, which may enable new projects to be developed containing affordable housing.*

D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

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

E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. The rezoning of Old St. Mary's Church will enable it to sell TDRs and use the proceeds to seismically upgrade the building. Any construction or alteration associated with formula retail establishment would be executed in compliance with all applicable construction and safety measures.*

G) That landmark and historic buildings will be preserved:

*The proposed Ordinance will help preserve individual Landmarks located in C-3 Zoning Districts by allowing these properties to sell TDRs to more properties in the C-3 area. In addition, the proposed changes in the Ordinance will incentivize designation of individual Landmarks.*

H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The proposed Ordinance will not impact the City's parks and open space.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 10, 2010.

Linda Avery
Commission Secretary

AYES: Miguel, Olague, Moore, Sugaya, Lee, Antonini

NAYS:

ABSENT: Borden

ADOPTED: June 10, 2010

SAN FRANCISCO
**PLANNING DEPARTMENT**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
**415.558.6378**

Fax:
**415.558.6409**

Planning
Information:
**415.558.6377**

# Historic Preservation Commission
# Resolution No. 646
## Planning Code Text Change,
## Zoning Map Amendment, and General Plan Amendment
**HEARING DATE: JUNE 3, 2010, CONTINUED FROM: APRIL 21 AND MARCH 17, 2010**

| | |
|---|---|
| *Project Name:* | 660-680 California Street, aka Old St. Mary's Church, Landmark #2<br>T Case: Amending Section 128 – Transfer of Development Rights<br>Z Case: Rezoning 660-680 California Street<br>M Case: Amendments to the Chinatown & Downtown Elements of General Plan |
| *Case Number:* | 2009.1180TZ |
| *Initiated by:* | Luce Forward Hamilton & Scripps LLP / Filed 12/22/09 |
| *Staff Contact:* | Tara Sullivan, Legislative Affairs<br>tara.sullivan@sfgov.org, 415-558-6257 |
| *Reviewed by:* | Tim Frye, Acting Preservation Coordinator<br>tim.frye@sfgov.org, 415-575-6822 |
| *Recommendation:* | **Recommend Approval** |

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT WITH MODIFICATIONS AN ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 128 (TRANSFER OF DEVELOPMENT RIGHTS IN C-3 DISTRICTS) TO REQUIRE THAT THE NET PROCEEDS FROM THE SALE OF TDR AFTER JULY 1, 2010 BE FIRST USED TO PAY FOR OR FINANCE THE PRESERVATION, REHABILITATION, AND/OR MAINTENANCE OF THE BUILDING ON THE TRANSFER LOT, AS WELL AS TO CORRECT ANY CITY NOTICES OF VIOLATION(S); AND ALLOW THE TRANSFER OF TDR FROM A PARCEL THAT IS AN INDIVIDUAL LANDMARK PURSUANT TO ARTICLE 10 AND LOCATED WITHIN THE C-3 DISTRICT TO A DEVELOPMENT LOT THAT IS LOCATED IN ANY C-3 DISTRICT BUT IS NOT LOCATED WITHIN A REDEVELOPMENT AGENCY PLAN AREA; AND ESTABLISH "MAINTENANCE AND REPAIR REQUIREMENTS FOR TRANSFER LOTS", WHICH WILL INCLUDE MANDATING THAT PROCEEDS FROM THE SALE OF TDR AFTER JULY 1, 2010 BE USED TO CORRECT ANY CITY VIOLATIONS, AND FOR PROPERTY OWNERS SUBMIT A WORK PLAN/MAINTENANCE REPORT TO THE DEPARTMENT; TO AMEND ZONING MAP SHEET ZN01 TO RECLASSIFY BLOCK 0241, LOTS 011 & 012, FROM CVR (CHINATOWN VISITOR RETAIL ) DISTRICT TO A C-3-O (DOWNTOWN OFFICE) DISTRICT; MAKING CONFORMING AMENDMENTS TO THE CHINATOWN AND DOWNTOWN AREA PLANS OF THE SAN FRANCISCO GENERAL PLAN; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL

FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE PRIORITY POLICIES OF PLANNING CODE SECTION 101

## PREAMBLE

Whereas, on December 30, 2009, Luce Forward, on behalf of The Roman Catholic Archbishop of San Francisco, applied to the Planning Department for a Planning Code text change and a Zoning Map amendment under Case Number 2009.1180TZ; and

Whereas, the proposed Planning Code text change would amend the Planning Code by amending Section 128 (Transfer of Development Rights in C-3 Districts) to require that the net proceeds from the sale of TDR after July 1, 2010 be first used to pay for or finance the preservation, rehabilitation, and/or maintenance of the building on the Transfer Lot, as well as to correct any City Notices of Violation(s); to allow the transfer of TDR from a parcel that is an individual landmark pursuant to Article 10 and located within the C-3 District to a Development Lot that is located in any C-3 District but is not located within a Redevelopment Agency Plan Area; and to establish "Maintenance and Repair Requirements for Transfer Lots", which will include mandating that proceeds from the sale of TDR after July 1, 2010 be used to correct any city violations, and for property owners submit a work plan/maintenance report to the Department; and

Whereas, the proposed San Francisco map change would amend Zoning Map ZN01 to rezone the parcel on block 0241, lots 011 and 012 (660-680 California Street, aka Old St. Mary's Church) from CVR (Chinatown Visitor Retail) to C-3-O (Downtown Commercial, Office); and

Whereas, the proposed General Plan amendments could make conforming amendments to the Chinatown and Downtown Area Plans to reflect the proposed rezoning; and

Whereas, on June 2, 2010, the San Francisco Historic Preservation Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance; and

Whereas, the proposed zoning changes have been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c)(2); and

Whereas, the Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented by Department staff, and other interested parties; and

Whereas, the 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 Commission has reviewed the proposed Ordinance; and

MOVED, that the Commission hereby recommends that the Board of Supervisors recommends ***approval with modifications of the proposed ordinance*** and adopts the attached Draft Resolution to that effect. Specifically, the Commission proposes to modify:

1. Allow the rezoning of 660-680 California Street (aka Old St. Mary's Church) and the related General Plan amendments;
2. Allow only this parcel to sell its TDR to any parcel within the C-3 zoning districts, subject to the restrictions outlined in the proposed Ordinance; and
3. Re-route the remainder of the Ordinance back to the Commission for it to review the larger policy issues related to the TDR program in San Francisco and make recommendations on the program.

## 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:

1. With regard to the proposed amendments to Planning Code Section 128:

2. Section 128 was put into the Planning Code in September 1985 when the Downtown Element of the General Plan was adopted. TDRs are a preservation tool, meant to incentivize owners of historic properties to preserve and maintain them in exchange for a monetary gain from the unused development rights on the parcel.

3. The transfer of development rights are permitted only in the C-3 zoned districts, which are located downtown and along Market Street .

4. The Transfer Lots are limited. This was intended so that most of the TDRs would be sold to parcels that were located south of Market Street, where the City, in its Downtown Plan, had identified as being the expansion of the Financial District. For the past 20+ years, most of the TDRs have been transferred to those parcels, which have resulted in the development of several office buildings, Yerba Buena Center, and other large-scale projects.

5. It has come to the attention of the Commission that the strict limitations of where TDRs can be sold are restricting the preservation of many buildings, especially as the TDR market has matured. That is, there are buildings that would like to sell their TDR to enable the preservation and rehabilitation of the historic structure, but because of the transfer restrictions, cannot locate a buyer of them because there are no available lots within the permitted C-3 zoning areas. They are stuck in limbo – the buildings are in need of the preservation funds but cannot utilize a key preservation tool.

6. The Commission has reviewed the TDR system and believes that permitting the 44 designated individual Landmarks to transfer their development rights to any parcel in the C-3 zoning district will enable these significant buildings to be preserved, rehabilitated, and maintained. It will help fund the mandated seismic upgrades to occur and any City violations (if applicable) to be corrected. Further, the Department believes that it will act as an incentive to designate more buildings under Article 10, which will then be able to have more flexibility in where the TDRs can be sold.

7. In addition to limiting the sale of TDRs to any C-3 zoning district to individual Landmarks, the Department believes that additional controls to prevent the sale of these TDRs (the 44 individual

Landmarks) to parcels that are under Redevelopment Agency control will ensure that those developments in most need of TDRs will receive them.

8. The Commission believes that it is good practice to require that proceeds from the sale of TDR be first used to preserve, rehabilitate, and maintain the historic property. This will apply to the sale of TDR after July 1, 2010 (the beginning of the next CCSF fiscal year) and to all properties, not just the individual Landmarks. This follows City policies in place for other preservation programs, such as the Mills Act Historical Property Contract Program.

9. With regard to the proposed Zoning Map Amendment:

10. The Old St. Mary's Church is located one lot to the west of the C-3-O Zoning District and integrating this lot into the commercial zoning will not have a negative effect on the mixed use Chinatown neighborhood, as it already contains a mix of commercial and residential uses.

11. There are no proposed changes in use for the Church property, as it will continue serving the community with religious and community services.

12. The proposed zoning will enable Old St. Mary's to participate in San Francisco's Transfer of Development Rights Program pursuant to Section 128, thus enabling the preservation of this significant individual Landmark.

13. With regard to the proposed General Plan Amendment:

14. The proposed amendment to the Chinatown Element of the General Plan is minor in scope and will not impact the remainder of this Element, as only one parcel will be rezoned.

15. The proposed amendment to the Downtown Element of the General Plan is minor in scope and will not impact the remainder of this Element. It will also provide for additional Transfer of Development Rights to be utilized by other properties in qualifying C-3 zoning districts.

16. Therefore, the Commission recommends ***approval of the proposed Ordinance.***

17. **General Plan Compliance.** The proposed Ordinance is, on balance, consistent with the following Objectives and Policies of the General Plan:

I. URBAN DESIGN ELEMENT

THE URBAN DESIGN ELEMENT CONCERNS THE PHYSICAL CHARACTER AND ORDER OF THE CITY, AND THE RELATIONSHIP BETWEEN PEOPLE AND THEIR ENVIRONMENT.

GOALS

*The Urban Design Element is concerned both with development and with preservation. It is a concerted effort to recognize the positive attributes of the city, to enhance and conserve those attributes, and to improve the*

*living environment where it is less than satisfactory. The Plan is a definition of quality, a definition based upon human needs.*

OBJECTIVE 1
EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

POLICY 1.3
Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTIVE 2
CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

POLICY 2.4
Preserve notable landmarks and areas of historic, architectural or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

POLICY 2.5
Use care in remodeling of older buildings, in order to enhance rather than weaken the original character of such buildings.

POLICY 2.7
Recognize and protect outstanding and unique areas that contribute in an extraordinary degree to San Francisco's visual form and character.

II. CHINATOWN AREA PLAN
THE CHINATOWN AREA PLAN SEEKS TO PROTECT THE SOCIAL AND ECONOMIC CHARACTERISTICS OF CHINATOWN, THE STANDARD OF LIVING SPACE FOR THE LARGELY ELDERLY OR IMMIGRANT POPULATION, AND THE SUSTAINABILITY OF RESOURCES INCLUDING SHOPPING AND SOCIAL AGENCIES TO CONTINUE TO SERVE THIS POPULATION.

OBJECTIVE 1
PRESERVE THE DISTINCTIVE URBAN CHARACTER, PHYSICAL ENVIRONMENT AND CULTURAL HERITAGE OF CHINATOWN.

POLICY 1.4
Protect the historic and aesthetic resources of Chinatown.

OBJECTIVE 2
RETAIN AND ENFORCE CHINATOWN'S MUTUALLY SUPPORTIVE FUNCTIONS AS NEIGHBORHOOD, CAPITAL CITY AND VISITOR ATTRACTION.
III. DOWNTOWN ELEMENT

THE DOWNTOWN PLAN GROWS OUT OF AN AWARENESS OF THE PUBLIC CONCERN IN RECENT YEARS OVER THE DEGREE OF CHANGE OCCURRING DOWNTOWN — AND OF THE OFTEN CONFLICTING CIVIC OBJECTIVES BETWEEN FOSTERING A VITAL ECONOMY AND RETAINING THE URBAN PATTERNS AND STRUCTURES WHICH COLLECTIVELY FOR THE PHYSICAL ESSENCE OF SAN FRANCISCO.

**OBJECTIVE 1**
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

**OBJECTIVE 12**
CONSERVE RESOURCES THAT PROVIDE CONTINUITY WITH SAN FRANCISCO'S PAST.

**Policy 12.1**
Preserve notable landmarks and areas of historic, architectural, or aesthetic value, and promote the preservation of other buildings and features that provide continuity with past development.

*The goal of the proposed Ordinance is to strengthen and streamline the Transfer of Development Rights (TDR) procedures. In doing so, it will provide clarity and certainty to the public, provide additional incentive for property owners to designate buildings individual Landmarks, and ensure that monies are used to preserve, rehabilitate, and maintain historic buildings. TDRs are a preservation tool, meant to incentivize owners of historic properties to preserve and maintain them in exchange for a monetary gain from the unused development rights on the parcel, which this Ordinance will facilitate.*

*Rezoning Old St. Mary's Church to C-3-O will enable this significant individual Landmark to participate in the TDR program, with the proceeds going into the seismic upgrades to the building.*

*Amending the Chinatown and Downtown Area Plans to reflect the rezoning is consistent with the overall policies of the General Plan because it will help facilitate the protection and maintenance of a significant individual Landmark and will preserve the distinctive urban character and aesthetic environment of Chinatown. It is also consistent with the goals of the Downtown Plan in that it will enable the building to sell TDRs, which will help preserve a resource that provides continuity with San Francisco's past while providing a mechanism for development of office/mixed use space in the Downtown core.*

18. The proposed replacement project is generally consistent with the eight General Plan priority policies set forth in Section 101.1 in that:

A) The existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses will be enhanced:

*The proposed Ordinance would not significantly impact existing neighborhood-serving retail uses or opportunities for employment in or ownership of such businesses.*

B) The existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods:

*The proposed Ordinance will not impact existing housing and neighborhood character.*

C) The City's supply of affordable housing will be preserved and enhanced:

*The proposed Ordinance will help enhance the City's supply of affordable housing by allowing for TDRs to be transferred to a larger number of parcels in the C-3 Districts, which may enable new projects to be developed containing affordable housing.*

D) The commuter traffic will not impede MUNI transit service or overburden our streets or neighborhood parking:

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

E) A diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development. And future opportunities for resident employment and ownership in these sectors will be enhanced:

*The proposed Ordinance would not adversely affect the industrial or service sectors or future opportunities for resident employment or ownership in these sectors.*

F) The City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*Preparedness against injury and loss of life in an earthquake is unaffected by the proposed amendments. The rezoning of Old St. Mary's Church will enable it to sell TDRs and use the proceeds to seismically upgrade the building. Any construction or alteration associated with formula retail establishment would be executed in compliance with all applicable construction and safety measures.*

G) That landmark and historic buildings will be preserved:

*The proposed Ordinance will help preserve individual Landmarks located in C-3 Zoning Districts by allowing these properties to sell TDRs to more properties in the C-3 area. In addition, the proposed changes in the Ordinance will incentivize designation of individual Landmarks.*

H) Parks and open space and their access to sunlight and vistas will be protected from development:

*The proposed Ordinance will not impact the City's parks and open space.*

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on June 2, 2010.

Linda Avery
Commission Secretary

AYES: Wolfram, Buckley, Damkroger, Martinez, Matzuda

NAYS:

RECUSED: Chase

ABSENT: Hasz

ADOPTED: June 2, 2010

SAN FRANCISCO
PLANNING DEPARTMENT

# Planning Commission
# Resolution No. 18092

## Initiation of Planning Code Text Change, Zoning Map Amendment, and General Plan Amendment
**HEARING DATE: MAY 20, 2010, CONTINUED FROM: APRIL 22 AND MARCH 25, 2010**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

| | |
|---|---|
| *Project Name:* | **660-680 California Street, aka Old St. Mary's Church, Landmark #2**<br>**T Case: Amending Section 128 – Transfer of Development Rights**<br>**Z Case: Rezoning 660-680 California Street**<br>**M Case: Amendments to the Chinatown & Downtown Elements of General Plan** |
| *Case Number:* | 2009.1180TZM |
| *Initiated by:* | Luce Forward Hamilton & Scripps LLP / Filed 12/22/09 |
| *Staff Contact:* | Tara Sullivan, Legislative Affairs<br>tara.sullivan@sfgov.org, 415-558-6257 |
| *Reviewed by:* | AnMarie Rodgers, Manager of Legislative Affairs<br>anmarie.rodgers@sfgov.org, 415-558-6395 |

**INITIATING PROJECT-SPONSORED AMENDMENTS TO PLANNING CODE SECTION 128 (TRANSFER OF DEVELOPMENT RIGHTS), SAN FRANCISCO ZONING MAP ZN01, AND THE CHINATOWN AND DOWNTOWN ELEMENTS OF THE GENERAL PLAN.**

## PREAMBLE

Whereas, on December 30, 2009, Luce Forward, on behalf of The Roman Catholic Archbishop of San Francisco, applied to the Planning Department for a Planning Code text change and a Zoning Map amendment under Case Number 2009.1180TZM; and

Whereas, the proposed Planning Code text change would amend the Planning Code by amending Section 128 (Transfer of Development Rights in C-3 Districts) to require that the net proceeds from the sale of TDR after July 1, 2010 be first used to pay for or finance the preservation, rehabilitation, and/or maintenance of the building on the Transfer Lot, as well as to correct any City Notices of Violation(s); to allow the transfer of TDR from a parcel that is an individual landmark pursuant to Article 10 and located within the C-3 District to a Development Lot that is located in any C-3 District but is not located within a Redevelopment Agency Plan Area; and to establish "Maintenance and Repair Requirements for Transfer Lots", which will include mandating that proceeds from the sale of TDR after July 1, 2010 be used to correct any city violations, and for property owners submit a work plan/maintenance report to the Department; and

Whereas, the proposed San Francisco map change would amend Zoning Map ZN01 to rezone the parcel on block 0241, lots 011 and 012 (660-680 California Street, aka Old St. Mary's Church) from CVR (Chinatown Visitor Retail) to C-3-O (Downtown Commercial, Office); and

Whereas, the proposed General Plan amendments would amend the Chinatown Land Use and Density Plan map and the Downtown Land Use and Density Map to reflect the rezoning of the parcel on block 0241, lots 011 and 012 (660-680 California Street, aka Old St. Mary's Church) from CVR (Chinatown Visitor Retail) to C-3-O (Downtown Commercial, Office); and

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the initiation of the proposed Ordinance on May 20, 2010; and

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

WHEREAS, the 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, the 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 Commission has reviewed the proposed Ordinance:

**MOVED**, that pursuant to Planning Code Section 302(b), the Planning Commission Adopts a Resolution of Intent to Initiate amendments to the Planning Code.

**AND BE IT FURTHER RESOLVED**, That pursuant to Planning Code Section 306.3, the Planning Commission authorizes the Department to provide appropriate notice for a public hearing to consider the above referenced Planning Code amendments contained in the draft ordinance, approved as to form by the City Attorney in **Exhibit A**, to be considered at a publicly noticed hearing on or after June 10, 2010.

I hereby certify that the foregoing Resolution was ADOPTED by the San Francisco Planning Commission on May 20, 2010.

Linda D. Avery
Commission Secretary

AYES: Miguel, Olague, Moore, Sugaya, Lee, Antonini, Borden

NOES:

ABSENT:

# SAN FRANCISCO
# PLANNING DEPARTMENT

## Certificate of Determination
## EXCLUSION/EXEMPTION FROM ENVIRONMENTAL REVIEW

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

| | |
|---|---|
| *Case No.:* | 2009.1176E |
| *Project Title:* | 660-680 California Street |
| *Zoning:* | Chinatown Visitor Retail<br>50-N Height and Bulk District |
| *Block/Lot:* | 0241/011 and 012 |
| *Lot Size:* | 2,652 square feet (Lot 11) and 19,061 square feet (Lot 12) |
| *Project Sponsor* | John C. Callan, Jr.<br>415-356-4670 |
| *Staff Contact:* | Andrea Contreras – (415) 575-9044<br>Andrea.Contreras@sfgov.org |

**PROJECT DESCRIPTION:**

The project site is located at the northeast corner of California Street and Grant Avenue in the Chinatown neighborhood of San Francisco, on the block bounded by Sacramento Street to the north, Kearny Street to the east, California Street to the south, and Grant Avenue to the west. Combined, Lots 11 and 12 are approximately 21,713 square-feet in size. Old St. Mary's Catholic Church is located on Lot 12 and the Rectory is located on Lot 11. These structures were constructed in 1853 and 1966 respectively. The proposed project includes a zoning map amendment and a text amendment of *San Francisco Planning Code*

(Continued on reverse side)

**EXEMPT STATUS:**

General Rule Exclusion (State CEQA Guidelines, Section 15061(b)(3))

**REMARKS:**

Please see next page.

**DETERMINATION:**

I do hereby certify that the above determination has been made pursuant to State and Local requirements.

June 2, 2010
Date

BILL WYCKO
Environmental Review Officer

cc: John C. Callan, Jr., Project Sponsor
T. Sullivan & A. Contreras, Planning Dept.
David Chiu, Supervisor District 3
V. Byrd, Bulletin Board and Master Decision File
Historic Preservation Distribution List
Sue Hestor

## PROJECT DESCRIPTION (CONTINUED):

Section 128: Transfer of Development Rights (TDR) in C-3 Districts. There is no proposed construction. The proposed zoning map amendment would rezone the project site from Chinatown Visitor Retail Mixed Use District (CVR) to Downtown Office Commercial District (C-3-O). The proposed text amendment of Section 128 would: 1) permit the sale of transferable development rights (TDR) from a parcel that is an individual landmark pursuant to Article 10 and located within the C-3 Zoning District to a Development Lot located within C-3 but not within a Redevelopment Area; 2) ensure that proceeds from the sale of TDR are spent on rehabilitation and maintenance of the Transfer Lot property (Old St. Mary's Church); and 3) establish reporting procedures for rehabilitation and maintenance which mandate that proceeds from the sale of TDR after July 1, 2010 be used to correct city violations and require the seller to submit a work plan or maintenance report to the Planning Department.

The Section 128 amendment would permit the sale of TDR from the rezoned project lot and require that the proceeds be used to finance the rehabilitation and maintenance of Old St. Mary's Church, a City landmark structure (City Landmark Number 2), which is also listed on the California Register of Historic Places (California Historical Landmark Number 810) and subject to the controls of Article 10 of the *Planning Code*. There is no proposed physical change to the project site, nor changes to the existing uses.

## REMARKS (continued):

CEQA Guidelines Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant impact on the environment. The proposed zoning map and text amendment would rezone the project site and allow for the creation of TDR units. The transfer of development rights is a procedure in which the right to develop one property (Transfer Lot) is transferred to another property (Development Lot). As a result of the transfer, the owner of the Transfer Lot receives compensation, even though no additional development at that site occurs. Conversely, with the transfer of development rights, the owner of a Development Lot can develop that site using increased allowable gross floor area as described in Section 128. The TDR program is available for only Landmark, Significant and Contributory Buildings located within C-3 Zoning Districts.

The project sponsor has indicated that only Old St. Mary's Catholic Church (Lot 12) would become a Transfer Lot. St. Mary's Church is exempt from floor area calculations per *Planning Code* Section 102.9: Gross Floor Area, because it is a religious institution.[1] Thus, the number of TDR units created on Lot 12 would be approximately 171,500 units. As of November 2009, approximately 2,192,000 TDR units were available. Thus, the amount of TDR created from the proposed project would be very small compared to the total amount of TDR currently available in San Francisco. Furthermore, any future development

[1] In C-3 Districts, floor area calculations are based on the sum of the gross areas of the several floors of a building or buildings, measured along the glass line at windows at a height of four feet above the finished floor and along a projected straight line parallel to the overall building wall plane connecting the ends of individual windows; provided, however, that such line shall not be inward of the interior face of the wall. "Gross floor area" shall not include floor area in C-3, South of Market Mixed Use Districts, and Eastern Neighborhoods Mixed Use Districts permanently devoted to cultural, educational, recreational, religious, or social service facilities available to the general public at no cost or at a fee covering actual operating expenses.

using the sale of TDR as proposed would be subject to the *San Francisco General Plan* and *Planning Code*. Thus, the proposed transfer of TDR would not be expected to result in any significant or cumulatively considerable impacts.

Since Old St. Mary's Church is a City Landmark, any proposal to demolish or significantly alter the structure due to the project site's rezoning would be subject to Article 10 of the *Planning Code* and would require a substantial planning process. Thus, it is highly speculative to conclude that the church could be demolished or significantly altered as a result of this rezoning.

Lot 11, the site of St. Mary's Rectory, would be rezoned to C-3-O because of its association with the function of Old St. Mary's Church. The Rectory would not become a Transfer Lot at this time because the site is not a Landmark, Significant or Contributory Building, and is thus not eligible for entitlement as a Transfer Lot. Once the site becomes eligible for entitlement as a Transfer Lot, the sale of TDR could be pursued, but would also be subject to Article 10 of the *Planning Code* and would require a substantial planning process if demolition or alteration were proposed. The San Francisco Archdiocese has stated that it has no plans to alter development on Lots 11 or 12, other than rehabilitation.[2] Thus, the proposed rezoning and text amendment would not result in significant environmental impacts.

Neighborhood Concerns

A "Notification of Project Receiving Environmental Review" was mailed on February 8, 2010 to potentially interested parties. No comments were received.

Exempt Status

CEQA Guidelines Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant impact on the environment. As noted above, the proposed zoning and text amendment would have no significant environmental effects. Since the proposed project would have no significant environmental effects, it is appropriately exempt from environmental review under the General Rule Exclusion (CEQA Guidelines Section 15061(b)(3).

[2] Email communication with John C. Callan, Jr., Project Sponsor, February 26, 2010.

SAN FRANCISCO
**PLANNING DEPARTMENT**

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

# Executive Summary
## Planning Code Text Change, Zoning Map Amendment, and General Plan Amendment
### HEARING DATE: JUNE 10, 2010, INITIATION HEARING DATE: MAY 20, 2010

| | |
|---|---|
| *Project Name:* | **660-680 California Street, aka Old St. Mary's Church, Landmark #2**<br>**T Case: Amending Section 128 – Transfer of Development Rights**<br>**Z Case: Rezoning 660-680 California Street**<br>**M Case: Amendments to the Chinatown & Downtown Elements of General Plan** |
| *Case Number:* | 2009.1180TZM |
| *Initiated by:* | Luce Forward Hamilton & Scripps LLP / Filed 12/22/09 |
| *Staff Contact:* | Tara Sullivan, Legislative Affairs<br>tara.sullivan@sfgov.org, 415-558-6257 |
| *Reviewed by:* | AnMarie Rodgers, Manager of Legislative Affairs<br>anmarie.rodgers@sfgov.org, 415-558-6395 |
| *Recommendation:* | **Recommend Approval** |

## CASE # 2009.1180 M: GENERAL PLAN AMENDMENT

660-680 California Street, aka Old St. Mary's Church, is currently zoned Chinatown Visitor Retail and is proposed to be rezoned C-3-O. Both the Chinatown and Downtown Elements of the General Plan contain land use and zoning maps. These two maps must be amended to reflect the proposed reclassification of Old St. Mary's Church.

## RECOMMENDATION

The Department recommends that the Commission recommend ***approval*** of the amendments to the General Plan and adopt the attached Draft Resolution to that effect.

## BASIS FOR RECOMMENDATION

- The subject property is located one lot to the west of the C-3-O Zoning District and integrating this lot into the commercial zoning will not have a negative effect on the mixed use Chinatown neighborhood, as it already contains a mix of commercial and residential uses; and
- The proposed amendment to the Chinatown Element of the General Plan is minor in scope and will not impact the remainder of this Element, as only one parcel will be rezoned; and
- The proposed amendment to the Downtown Element of the General Plan is minor in scope and will not impact the remainder of this Element. It will also provide for additional Transfer of Development Rights to be utilized by other properties in qualifying C-3 zoning districts.

RECOMMENDATION OF GENERAL PLAN AMENDMENTS: **Recommendation of Approval**

## CASE # 2009.1180 Z: REZONING OF 660-680 CALIFORNIA STREET, AKA OLD ST. MARY'S CHURCH

### SITE DESCRIPTION AND PRESENT USE

Old St. Mary's Church is located on the northeast corner of California Street and Grant Avenue in the Chinatown neighborhood. There are 2 lots that are a part of the proposed rezoning: Lot 012 contains the historic church building, and Lot 011 contains the contemporary church offices. The lots are zoned Chinatown Visitor Retail with a 50-N Height and Bulk District.

The subject properties are San Francisco Landmark No. 2, designated in 1967. Lot 012 contains Old St. Mary's Church, which was constructed in 1854. It was the first church erected as a Roman Catholic Cathedral in California and is the second oldest church in San Francisco still in use. Designed in a modest Victorian Gothic style, the Old St. Mary's is constructed of red brick and stone, featuring a central tower and tripartite entrance on California Street and a secondary entrance on Grant Avenue.

Lot 011 contains the Church offices and faces California Street. It was constructed in 1966 and designed in a Contemporary style. The building is four-stories tall and features red brick with limestone detailing.

### SURROUNDING PROPERTIES AND NEIGHBORHOOD

660-680 California Street, aka Old St. Mary's Church is located within a CVR (Chinatown Visitor Retail) Zoning District and is located one lot to the west of the C-3-O Zoning District. The surrounding properties are mixed use in nature, featuring residential and commercial structures, with Grant Avenue service as a main thoroughfare for the Chinatown District.

### HEARING NOTIFICATION (FOR PLANNING COMMISSION ACTION)

| TYPE | REQUIRED PERIOD | REQUIRED NOTICE DATE | ACTUAL NOTICE DATE | ACTUAL PERIOD |
|---|---|---|---|---|
| Classified News Ad | 20 days | March 5, 2010 | March 5, 2010 | 75 days |
| Posted Notice | 10 days | March 15, 2010 | March 15, 2010 | 85 days |
| Mailed Notice | 10 days | March 15, 2010 | April 12, 2010 | 85 days |

### RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Rezoning Ordinance and adopt the attached Draft Resolution to that effect.

### BASIS FOR RECOMMENDATION

- The subject property is located one lot to the west of the C-3-O Zoning District and integrating this lot into the commercial zoning will not have a negative effect on the mixed use Chinatown neighborhood, as it already contains a mix of commercial and residential uses; and
- There are no proposed changes in use for the Church property, as it will continue serving the community with religious and community services; and
- The proposed zoning will enable Old St. Mary's to participate in San Francisco's Transfer of Development Rights Program pursuant to Section 128, thus enabling the preservation of this significant individual Landmark.

RECOMMENDATION OF ZONING MAP AMENDMENTS: Recommendation of Approval

## CASE # 2009.1180 T: PLANNING CODE AMENDMENT

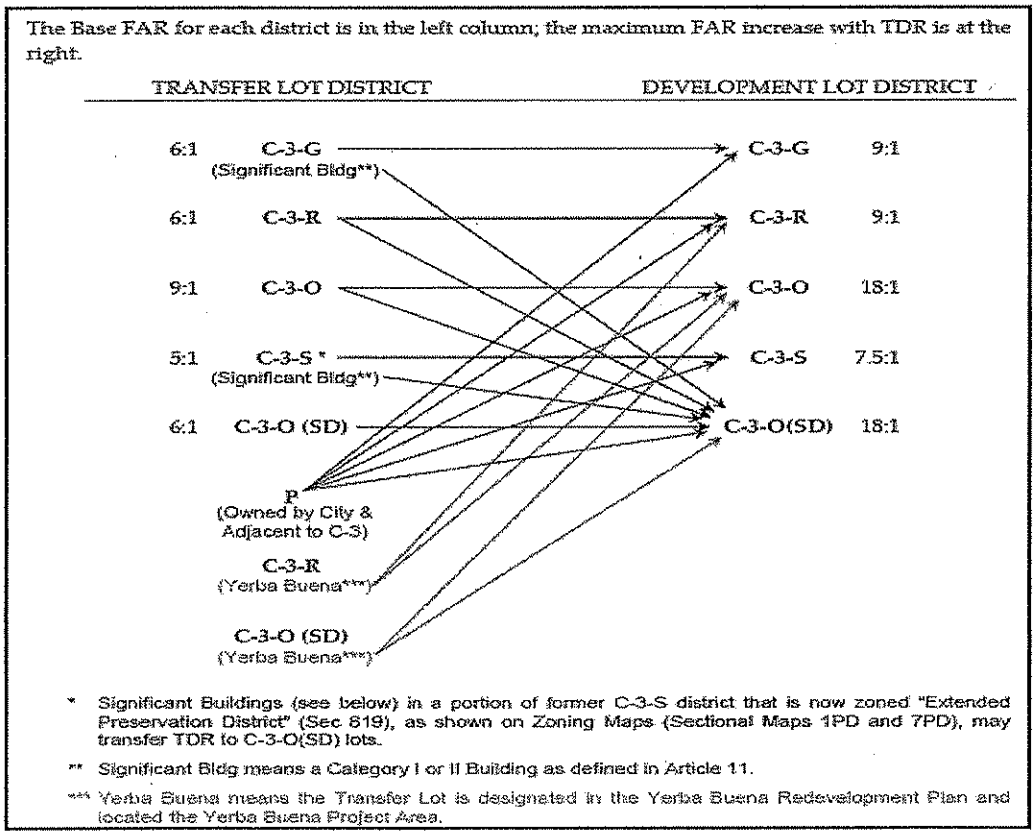
The proposed Ordinance would amend the Planning Code by amending Section 128 (Transfer of Development Rights in C-3 Districts). Specifically, it would do the following:

1. Require that the net proceeds from the sale of TDR after July 1, 2010 be first used to pay for or finance the preservation, rehabilitation, and/or maintenance of the building on the Transfer Lot, as well as to correct any City Notices of Violation(s); and
2. Allow the transfer of TDR from a parcel that is an individual landmark pursuant to Article 10 and located within the C-3 District to a Development Lot that is located in any C-3 District but is not located within a Redevelopment Agency Plan Area; and
3. Establish "Maintenance and Repair Requirements for Transfer Lots", which will include mandating that proceeds from the sale of TDR after July 1, 2010 be used to correct any city violations, and for property owners submit a work plan/maintenance report to the Department.

### The Way It Is Now:

Currently a lot that wishes to sell Transfer of Development Rights ("TDR") are limited in where they may transfer those development rights to (the "Transfer Lot"). Section 128(a)(4): Transfer Lot, outlines the locations where TDR may be received.

The following diagram shows the current limitations of how TDRs may be sold:



In addition to these limitations, the Code is silent on how the proceeds of the sale of TDR may be spent.

**The Way it Would Be:**

The proposed Ordinance would allow the limited transfer of TDR to ANY parcel zoned C-3. This would apply only to buildings that are designated individual Landmarks pursuant to Article 10, and would not be able to be transferred to a lot that is under Redevelopment Agency control.

In addition, the proposed Ordinance would specify that the proceeds received from the sale of TDR after July 1, 2010, must first be used for the preservation, rehabilitation, and/or the ongoing maintenance of the historic property, including curing any City violations on the property. There are specific reporting controls that will be put in place to ensure this occurs.

## 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.

## RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

## BASIS FOR RECOMMENDATION

Section 128 was put into the Planning Code in September 1985 when the Downtown Element of the General Plan was adopted. TDRs are a preservation tool, meant to incentivize owners of historic properties to preserve and maintain them in exchange for a monetary gain from the unused development rights on the parcel.

The transfer of development rights are permitted only in the C-3 zoned districts, which are located downtown and along Market Street (See Attachment C). TDR is a program where particular lots are able to sell their undeveloped gross floor area to another lot, which is then used for a new development (lots that can sell TDR are called the "Preservation Lot").

Individual Landmarks designated pursuant to Article 10, Category I, II, III, IV buildings designated pursuant to Article 11, and Category V buildings that has been deemed to have a 'compatible rehabilitation' are eligible for the transfer of TDR.[1]

As noted in the previous chart, the Transfer Lots are limited. This was intended so that most of the TDRs would be sold to parcels that were located south of Market Street, where the City, in its Downtown Plan, had identified as being the expansion of the Financial District. For the past 20+ years, most of the TDRs have been transferred to those parcels, which have resulted in the development of several office buildings, Yerba Buena Center, and other large-scale projects.

However, it has come to the attention of the Department that the strict limitations of where TDRs can be sold are restricting the preservation of many buildings, especially as the TDR market has matured. That

[1] Planning Code Section128(a)(3).

is, there are buildings that would like to sell their TDR to enable the preservation and rehabilitation of the historic structure, but because of the transfer restrictions, cannot locate a buyer of them because there are no available lots within the permitted C-3 zoning areas. They are stuck in limbo – the buildings are in need of the preservation funds but cannot utilize a key preservation tool.

The Department has reviewed the TDR system and believes that permitting the 44 designated individual Landmarks to transfer their development rights to any parcel in the C-3 zoning district will enable these significant buildings to be preserved, rehabilitated, and maintained. It will help fund the mandated seismic upgrades to occur and any City violations (if applicable) to be corrected. Further, the Department believes that it will act as an incentive to designate more buildings under Article 10, which will then be able to have more flexibility in where the TDRs can be sold.

In addition to limiting the sale of TDRs to any C-3 zoning district to individual Landmarks, the Department believes that additional controls to prevent the sale of these TDRs (the 44 individual Landmarks) to parcels that are under Redevelopment Agency control will ensure that those developments in most need of TDRs will receive them.

Lastly, the Department believes that it is good practice to require that proceeds from the sale of TDR be first used to preserve, rehabilitate, and maintain the historic property. This will apply to the sale of TDR after July 1, 2010 (the beginning of the next CCSF fiscal year) and to all properties, not just the individual Landmarks. This follows City policies in place for other preservation programs, such as the Mills Act Historical Property Contract Program. The system outlined in the proposed Ordinance will help the Department to ensure historic buildings are preserved.

In sum, the Department recommends approval of the proposed Ordinance.

| RECOMMENDATION OF NEW USE CATEGORY: **Recommendation of Approval** |
|---|

## ENVIRONMENTAL REVIEW

The proposed Ordinance has been reviewed pursuant to CEQA and is excluded under Section 15061(b)(3) of the CEQA Guidelines.

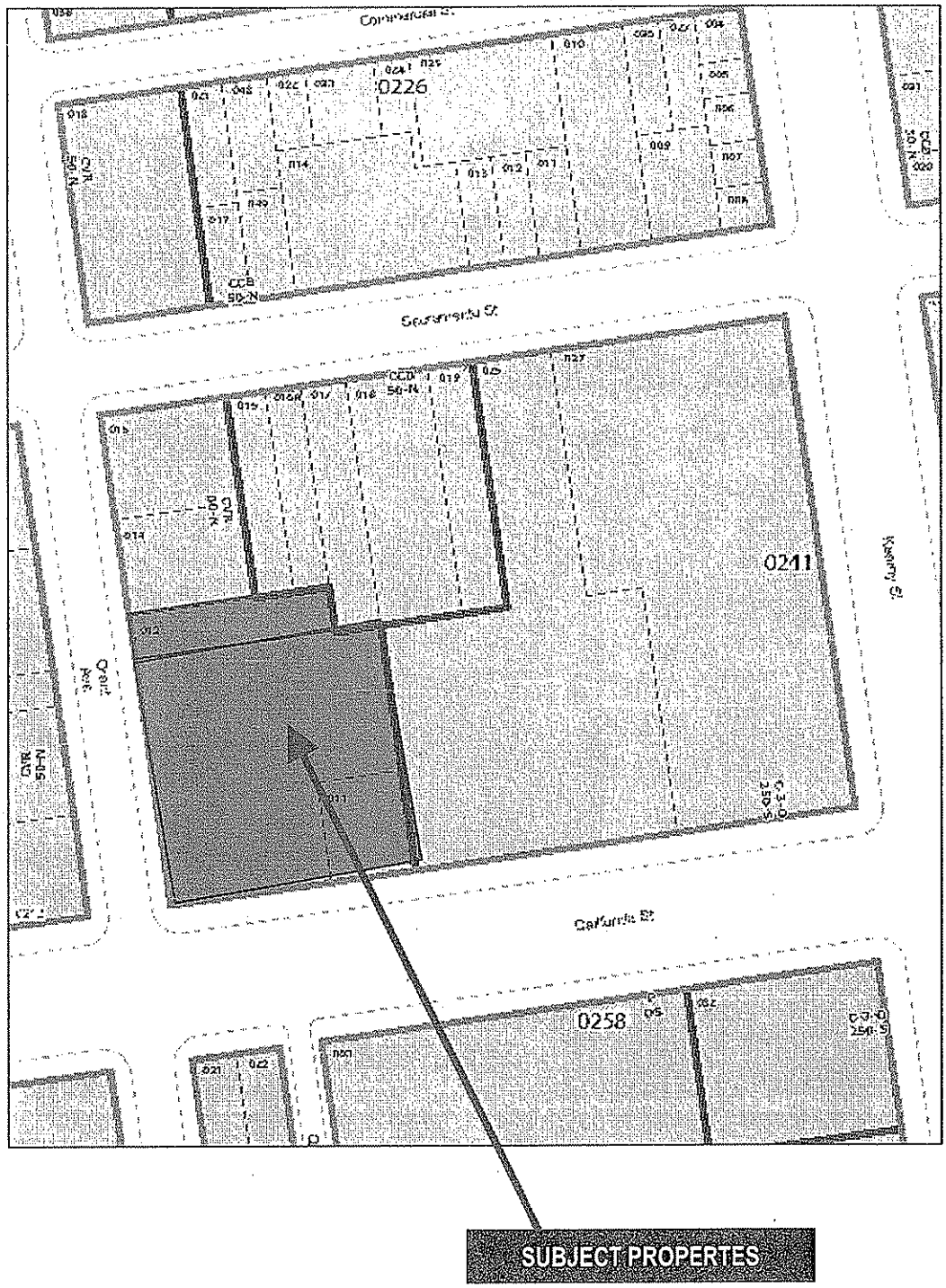
## PUBLIC COMMENT

As of the date of this report, the Planning Department has received 2 letters in support of the proposed rezoning.

**Attachments:**

| | |
|---|---|
| Exhibit A: | Draft Planning Commission Resolution |
| Exhibit B: | Draft Ordinance |
| Exhibit C: | Map of C-3 Zoned Areas in San Francisco |
| Exhibit D: | Exhibits for Rezoning of 660-680 California Street: Parcel Map, Sandborn Map, Photographs, Zoning Map |
| Exhibit E: | Letters in Support of Rezoning |

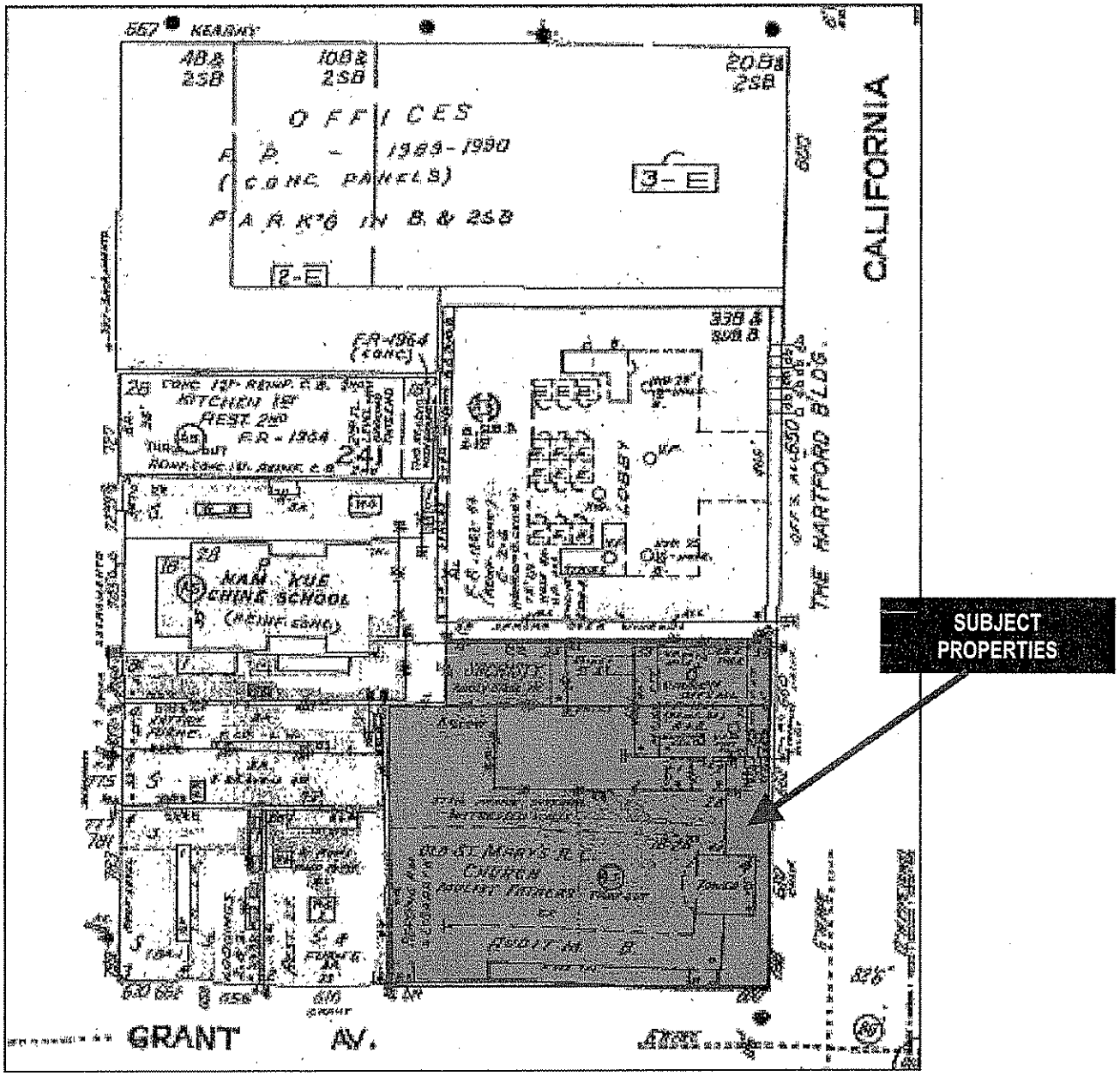
# Parcel Map




**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

SAN FRANCISCO
PLANNING DEPARTMENT

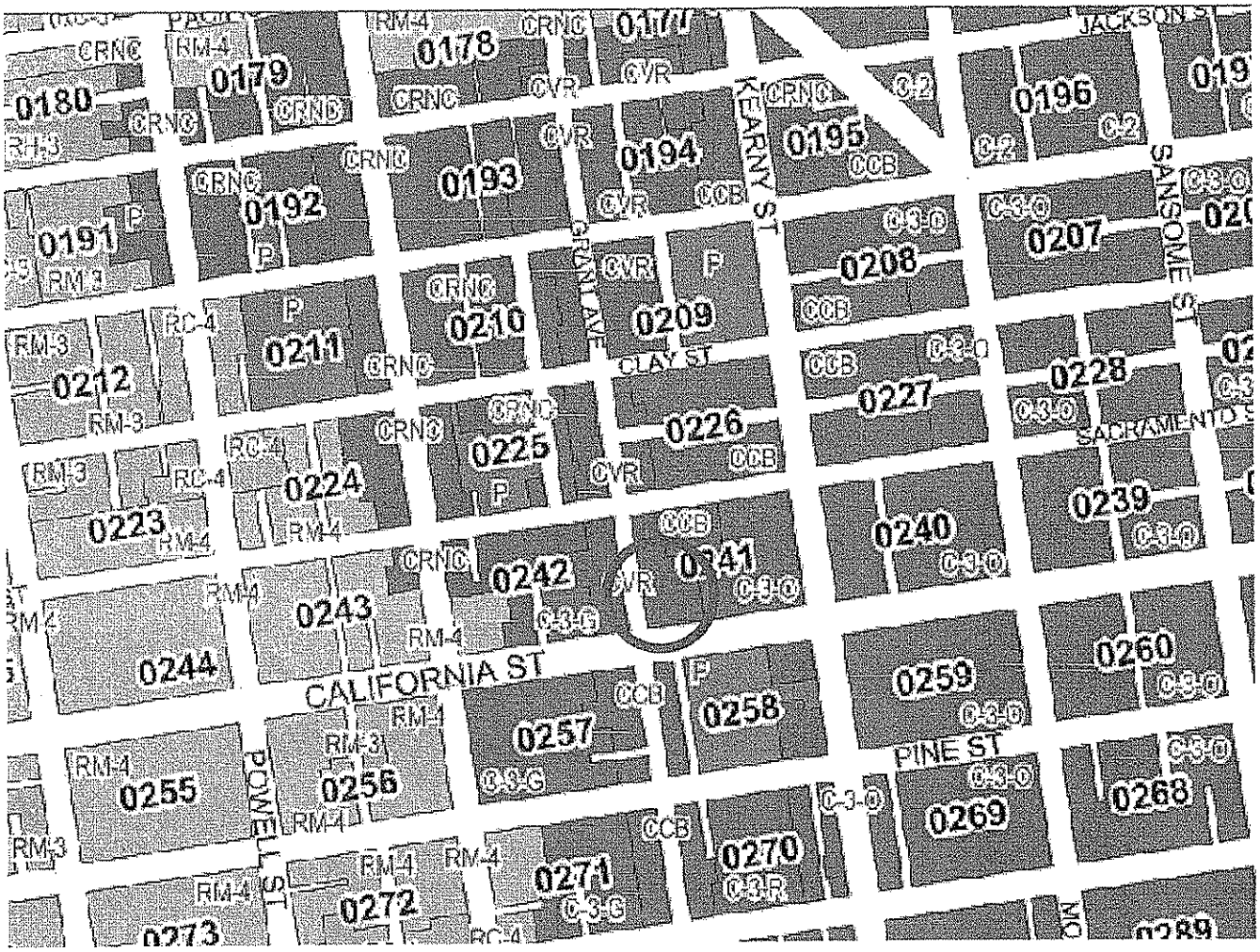
# Sanborn Map*




*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.*

**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

# Zoning Map




## ZONING USE DISTRICTS

RESIDENTIAL, HOUSE DISTRICTS
RH-1(D) | RH-1 | RH-1(S) | RH-2 | RH-3

RESIDENTIAL, MIXED (APARTMENTS & HOUSES) DISTRICTS
RM-1 | RM-2 | RM-3 | RM-4

NEIGHBORHOOD COMMERCIAL DISTRICTS
NC-1 | NC-2 | NC-3 | NCD | NC-S

SOUTH OF MARKET MIXED USE DISTRICTS
SPD | RED | RSD | SLR | SLI | SSO

COMMERCIAL DISTRICTS
C-2 | C-3-S | C-3-G | C-3-R | C-3-O | C-3-O(SD)

INDUSTRIAL DISTRICTS
C-M | M-1 | M-2

CHINATOWN MIXED USE DISTRICTS
CRNC | CVR | CCB

RESIDENTIAL-COMMERCIAL DISTRICTS
RC-3 | RC-4

REDEVELOPMENT AGENCY DISTRICTS
MB-RA | HP-RA

DOWNTOWN RESIDENTIAL DISTRICTS
RH DTR | TB DTR

MISSION BAY DISTRICTS
MB-OS | MB-O

PUBLIC DISTRICT
P

Case Number 2009.1180TZM
Old St. Mary's Church
660-680 California Street

SAN FRANCISCO
**PLANNING DEPARTMENT**

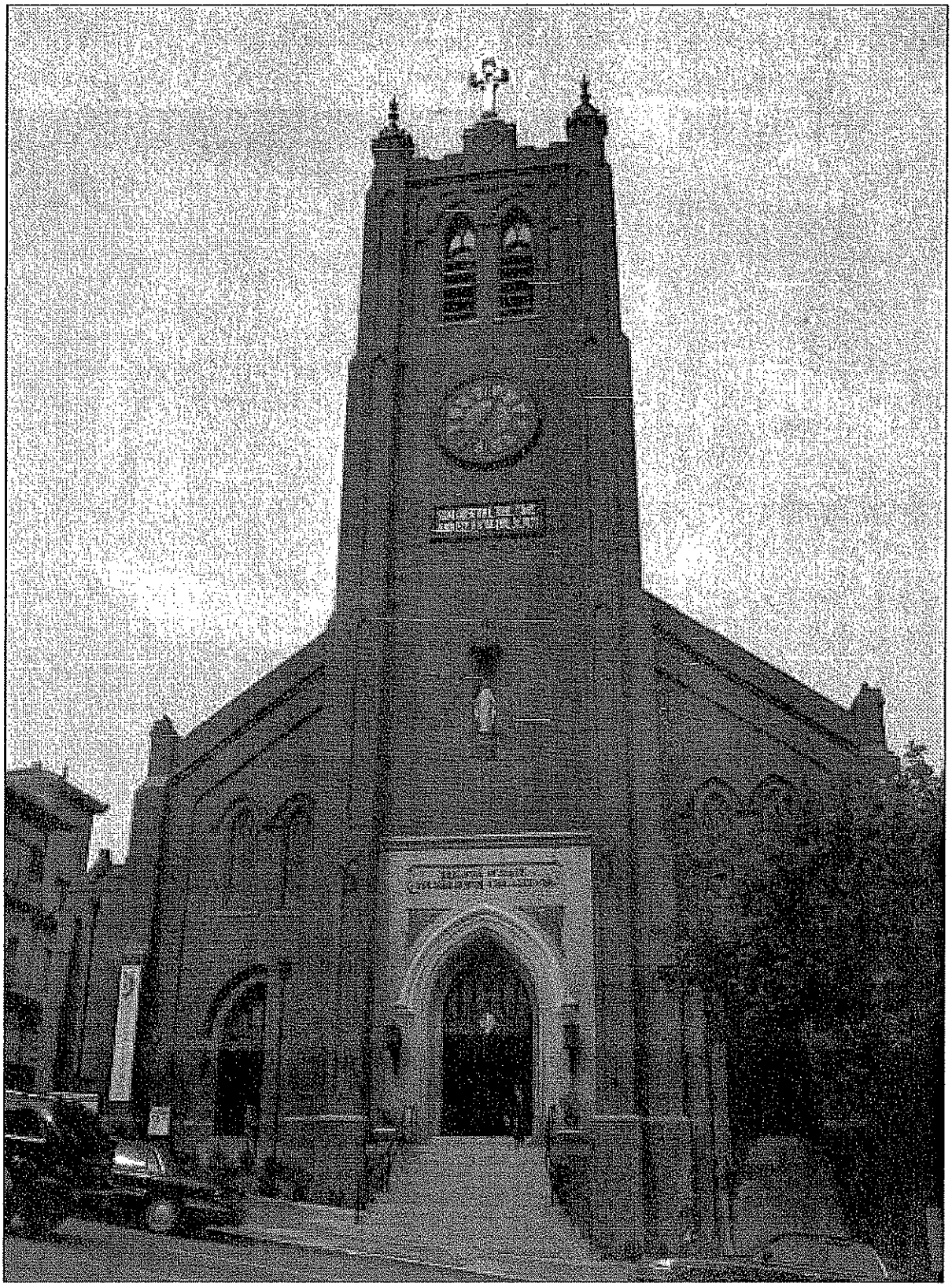
# Aerial Photo


**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

# Aerial Photo

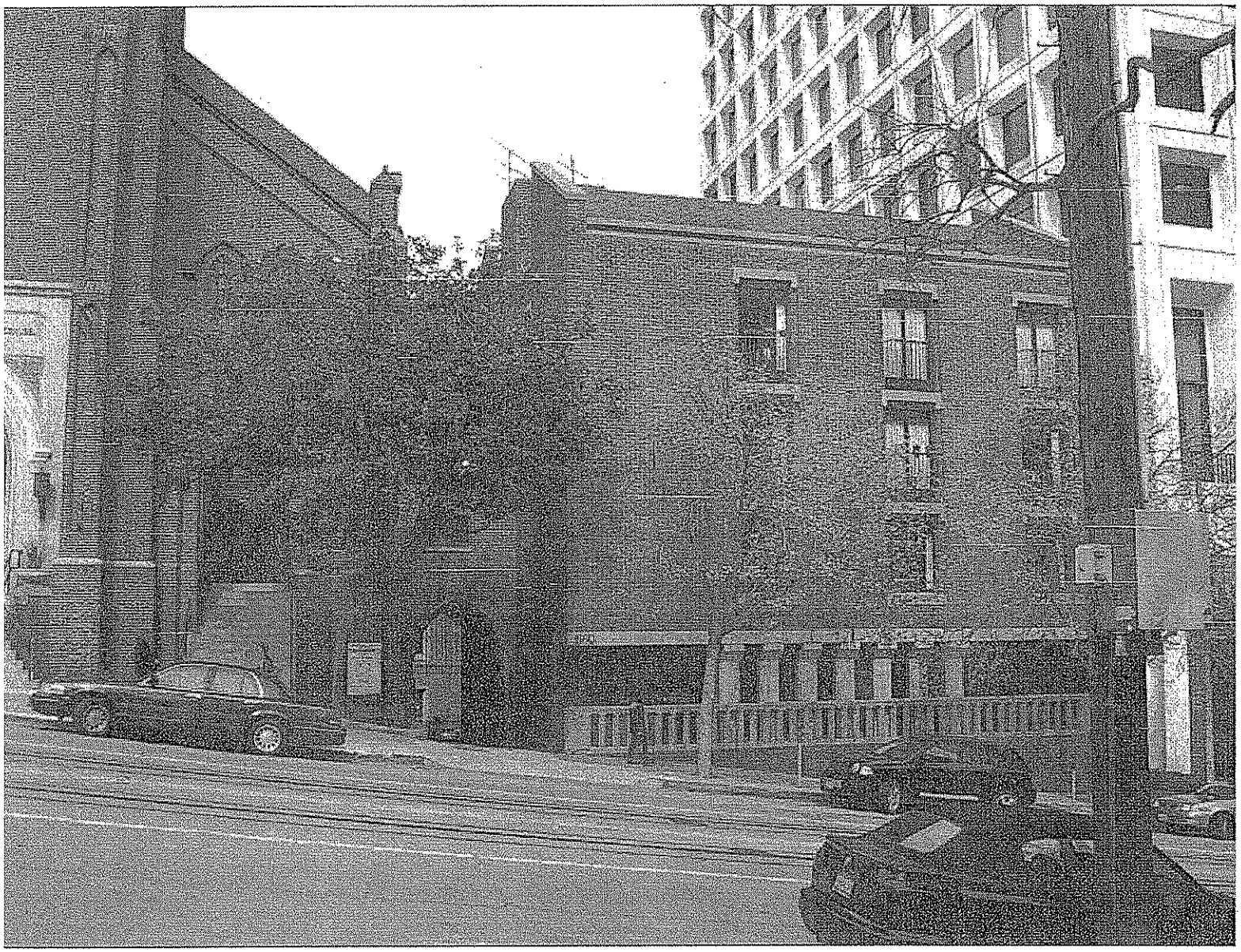

Case Number 2009.1180TZM
Old St. Mary's Church
660-680 California Street

# Site Photo



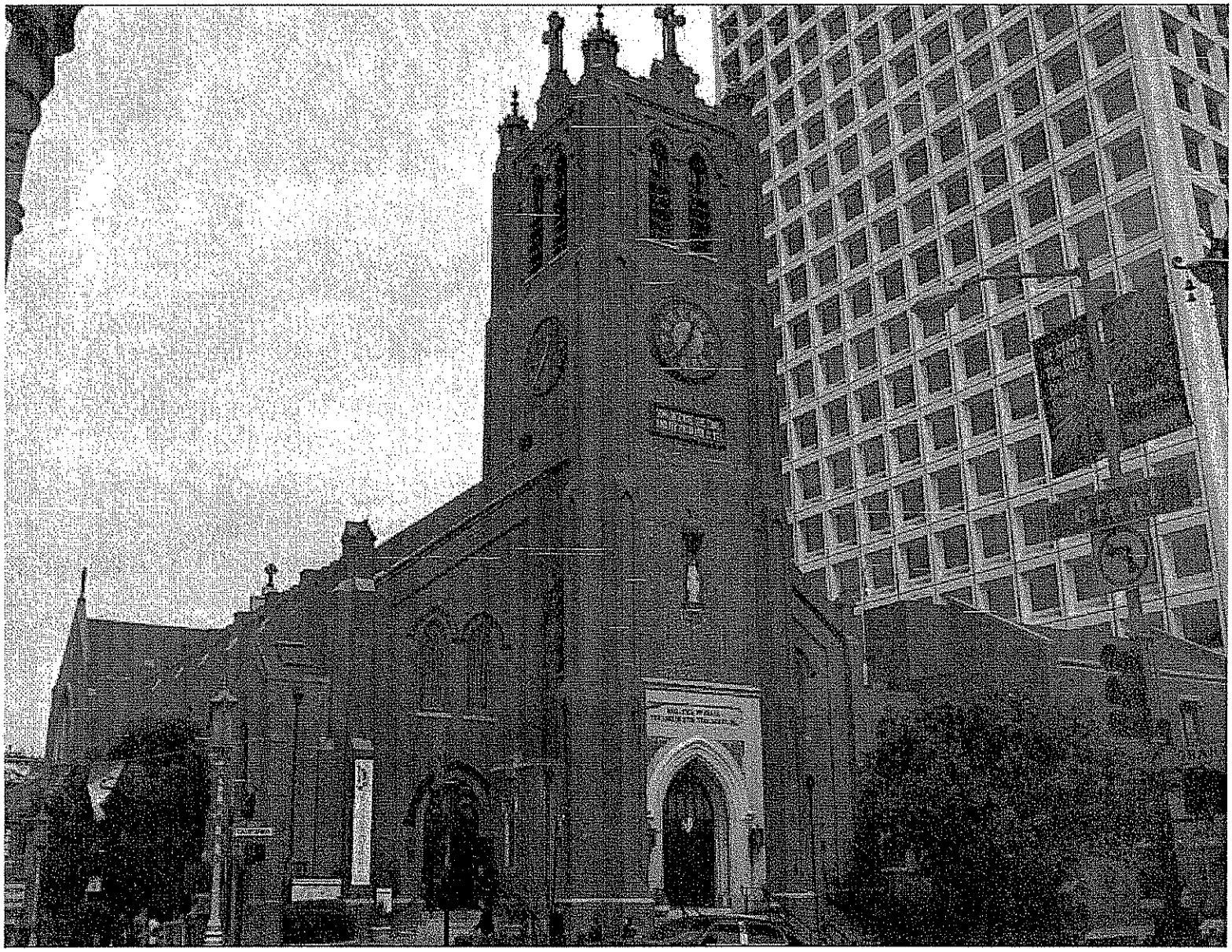
**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

# Site Photo



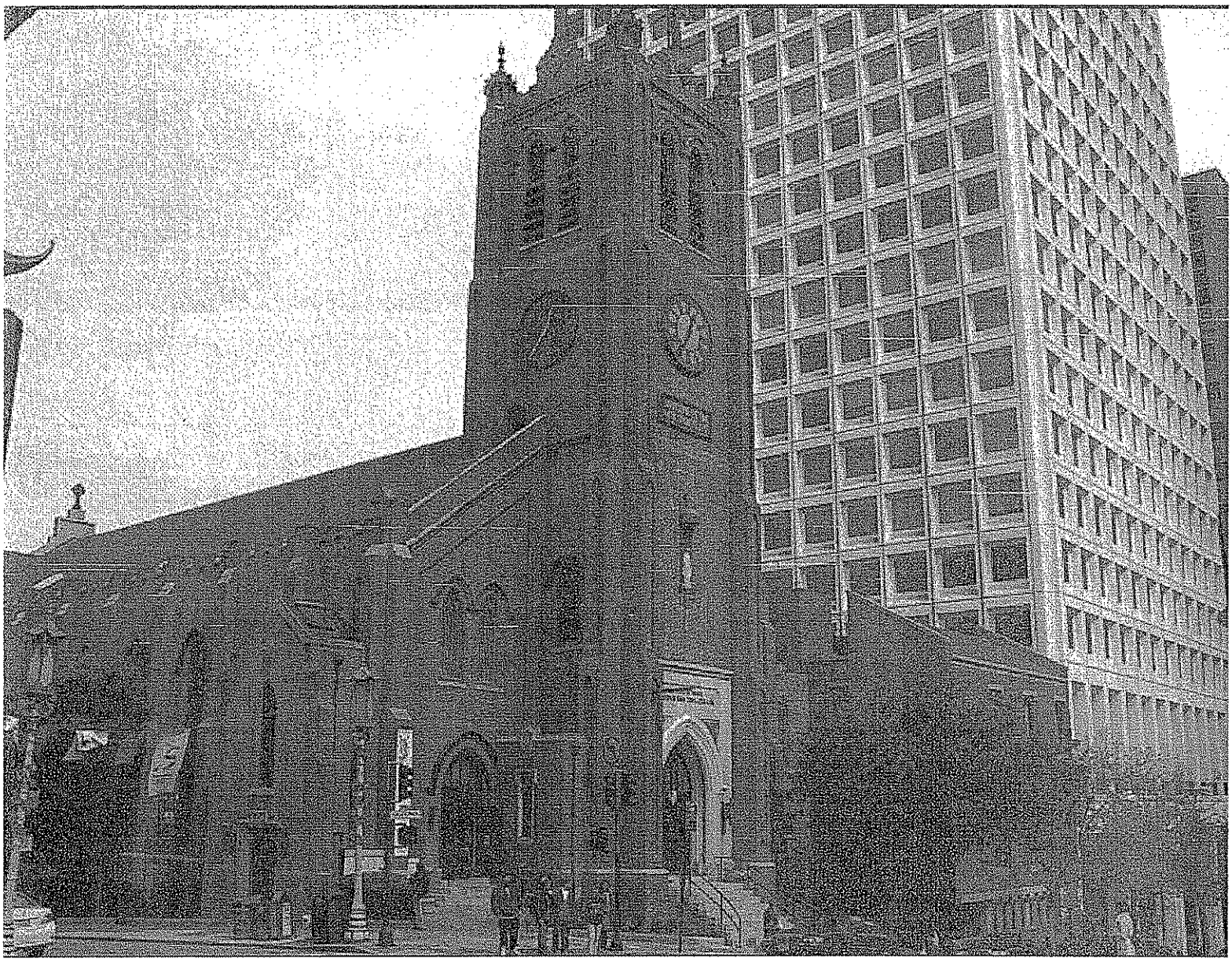
**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

# Site Photo



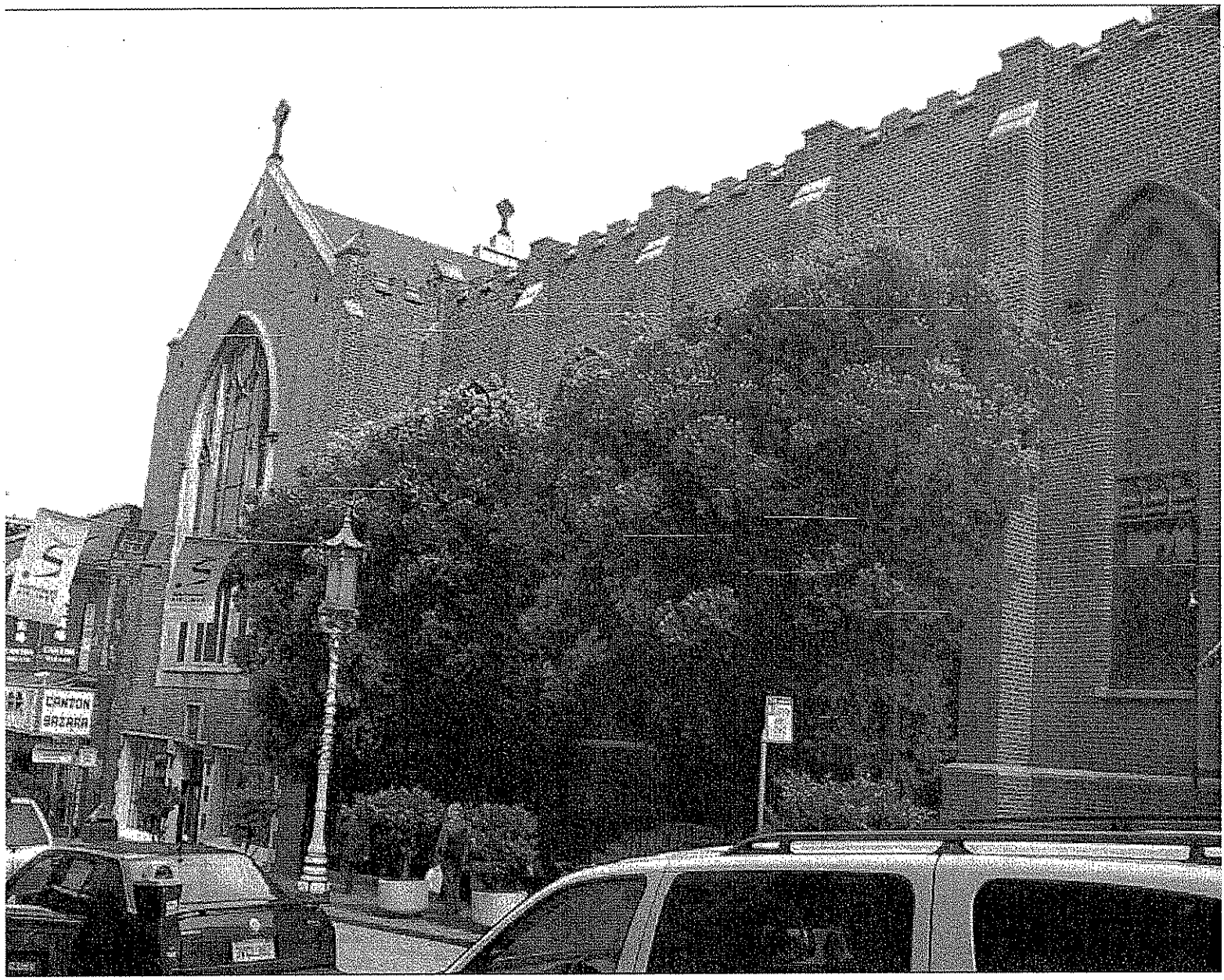
**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

# Site Photo



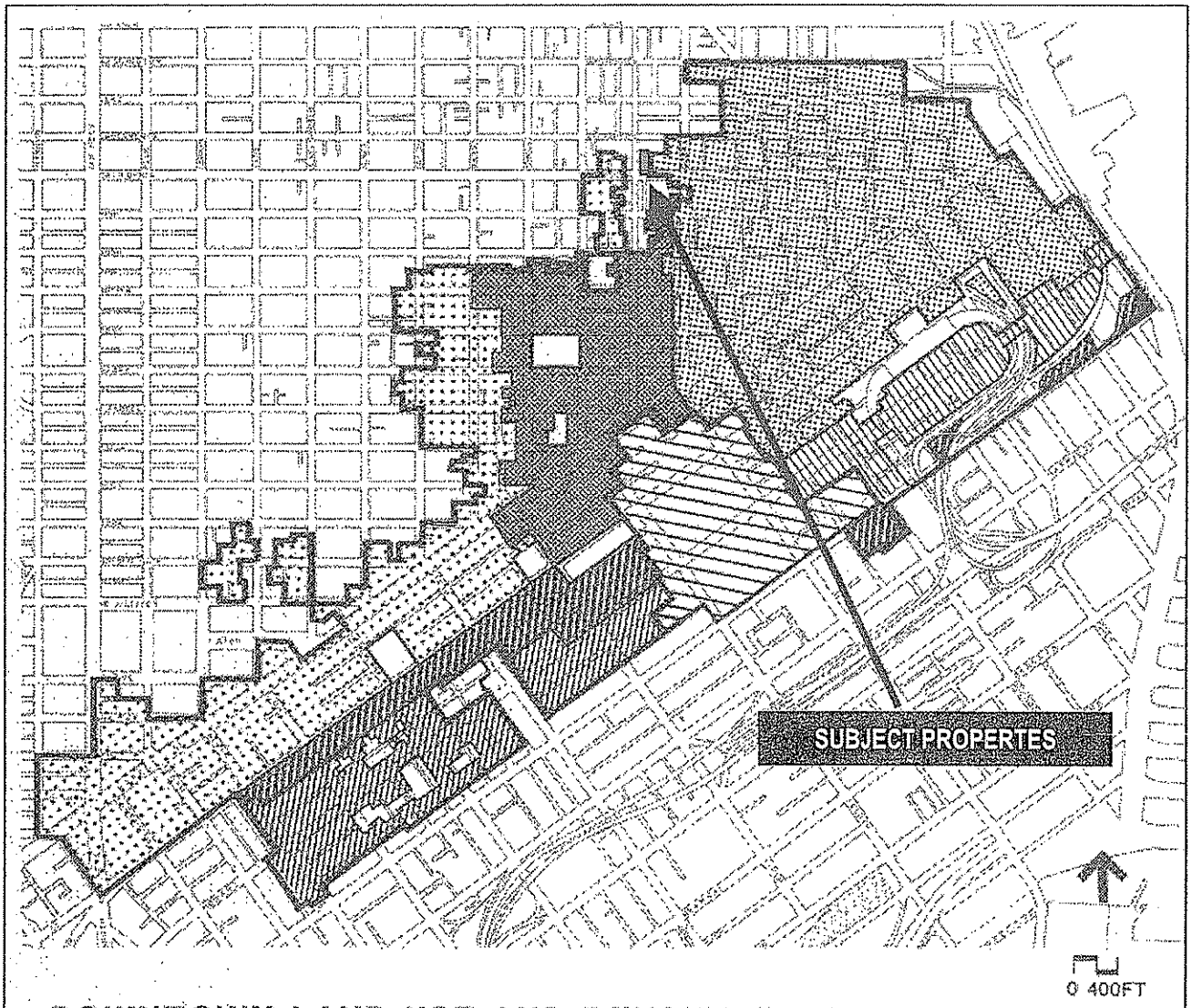
**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

# Site Photo




**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

# Downtown Land Use & Density Plan Map




## DOWNTOWN LAND USE AND DENSITY PLAN

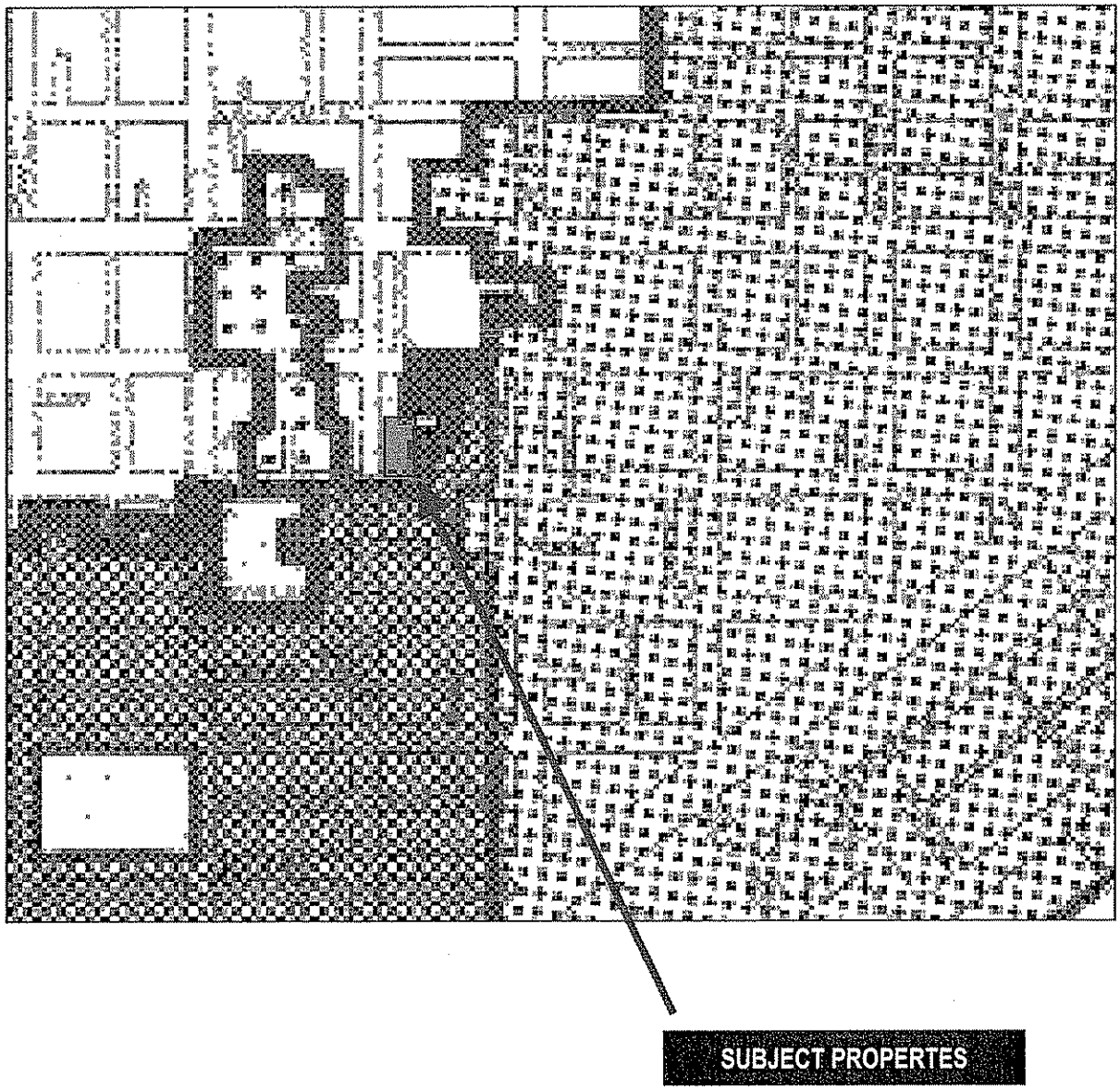
Map 1

| Predominant Commercial Use Type | Building Commercial Intensity Density* | Height | Appropriate Zoning District |
|---|---|---|---|
| Downtown Office | FAR 9:1 | | C-3-O |
| Downtown Office | 6:1 | | C-3-O (SD) |
| Downtown Retail | 6:1 | | C-3-R |
| Downtown General Commercial | 6:1 | | C-3-G |
| Downtown Service | 5:1 | | C-3-S |
| Downtown Service, Industrial Housing Conservation | 2:1 office, 5:1 other | | C-3-S (SU) |
| Mixed Use | See Yerba Buena Center Redevelopment Plan | | |

*Unused FAR may be transferred from preservation sites to development sites up to a maximum FAR of 18:1 in the C-3-O and C-3-O (SD) districts and up to one and one half times the basic FAR in the C-3-R, C-3-G and C-3-S districts. See Preservation of the Past Chapter.

General Plan Amendment
**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

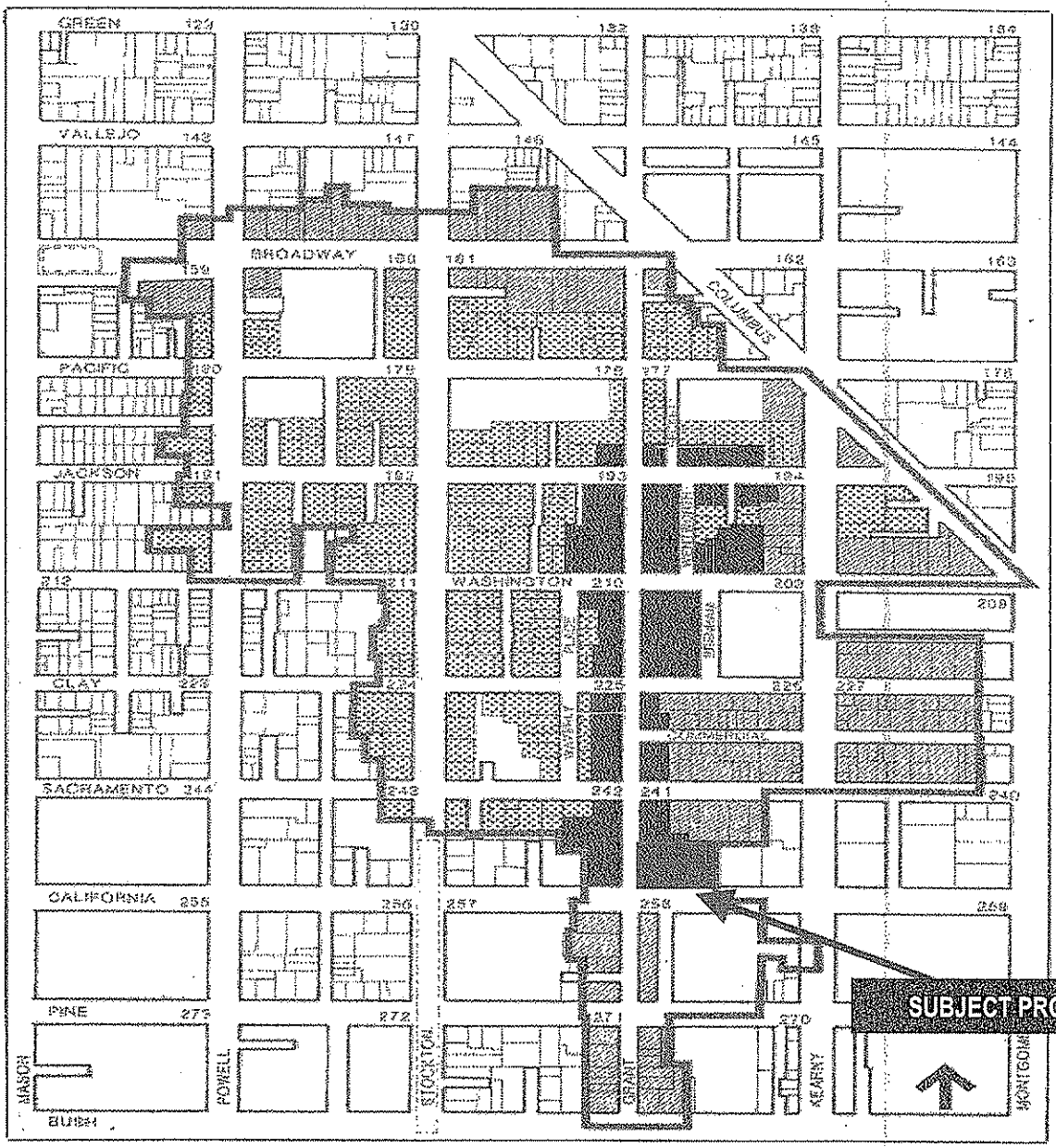
# Downtown Land Use & Density Plan Map




General Plan Amendment
**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street

SAN FRANCISCO
**PLANNING DEPARTMENT**

# Chinatown Land Use & Density Plan Map

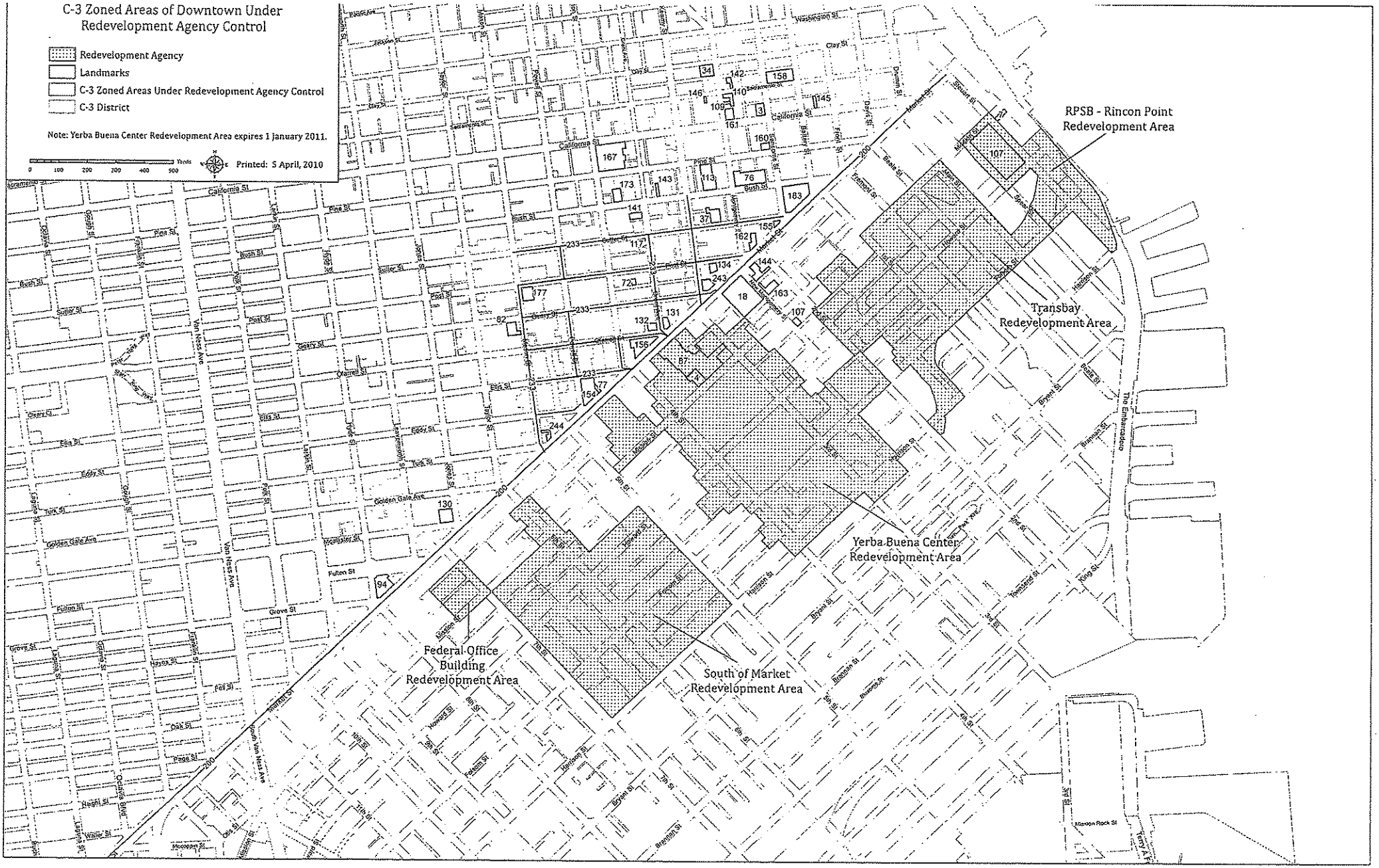



## CHINATOWN LAND USE AND DENSITY PLAN

| | PREDOMINANT COMMERCIAL USE TYPE | BUILDING COMMERCIAL INTENSITY DENSITY | APPROPRIATE ZONING DISTRICT |
|---|---|---|---|
| | Chinatown Residential Neighborhood Commercial | FAR 1.0 : 1 | CRNC |
| | Chinatown Community Business | 2.8 : 1 | CCB |
| | Chinatown Visitor Retail | 2.0 : 1 | CVR |

Map 3

General Plan Amendment
**Case Number 2009.1180TZM**
Old St. Mary's Church
660-680 California Street


C-3 Zoned Areas of Downtown Under Redevelopment Agency Control
Redevelopment Agency
Landmarks
C-3 Zoned Areas Under Redevelopment Agency Control
C-3 District
Note: Yerba Buena Center Redevelopment Area expires 1 January 2011.
Printed: 5 April, 2010
RPSB - Rincon Point Redevelopment Area
Transbay Redevelopment Area
Yerba Buena Center Redevelopment Area
South of Market Redevelopment Area
Federal Office Building Redevelopment Area

LUCE FORWARD
ATTORNEYS AT LAW • FOUNDED 1873
LUCE, FORWARD, HAMILTON & SCRIPPS LLP

121 Spear Street
Suite 200
San Francisco, CA 94105
415.356.4600
415.356.4610 fax
www.luce.com

JOHN C. CALLAN, JR., PARTNER
DIRECT DIAL NUMBER 415.356.4600
DIRECT FAX NUMBER 415.356.3898
EMAIL ADDRESS ccallan@luce.com

April 19, 2010

**VIA E-MAIL AND MESSENGER**

Mr. Ron Miguel
President, Planning Commission
1650 Mission Street, Fourth Floor
San Francisco, CA 94103

Subject: Proposed Amendments to Section 128 (Transfer of Development Rights)
Proposed Reclassification of Old Saint Mary's Church from Chinatown Visitor Retail to C-3-0 Zoning District

Dear President Miguel and Honorable Commissioners:

Our office represents Old Saint Mary's Church ("Old Saint Mary's"), located at 660-680 California Street, San Francisco, California. Old Saint Mary's, a small local parish that was constructed in 1854, is the second oldest church in the City and has been an active parish since its opening. Preservation of this important landmarked building required the expenditure of approximately $9,724,852 in construction costs for seismic retrofitting and upgrading, and ADA compliance and Building Code deficiency work, which does not include necessary deferred maintenance work that is essential to preserve this building. Old Saint Mary's has raised over 6 million dollars toward the total construction costs but has been unable to raise any additional funds. In order to raise the additional money to complete the phased project, including paying for the financing of the second phase, retrofitting the character-defining bell tower feature of the Church, Old Saint Mary's began exploring fund raising options such as selling transferable development rights ("TDRs").

***Amendments to Planning Code Section 128***

The proposed amendments to the TDR provisions of the Planning Code have been drafted narrowly to ensure that a Planning Code Article 10 City Designated Landmark in a C-3 District can transfer its TDRs to sites located anywhere in any of the C-3 sub-districts, provided that the Development Lot where the TDRs are being transferred is not within a Redevelopment Plan Area. Additionally, proceeds from the sale must be used exclusively to pay for or finance the correction of Building Code violations and deficiencies, for compliance with current seismic standards, fire safety standards and ADA requirements, or for deferred maintenance.

To educate and inform the community of this process, Old Saint Mary's embarked on an extensive community consultation process, including meeting and consulting with the Chinatown Community Development Center ("CCDC") and the Foundation for San Francisco Architectural Heritage ("Heritage"). Initially, CCDC expressed concerns that the TDR sales proceeds could be misspent. To address their concerns, Section 128(l) was added to ensure that the TDR sales proceeds must be expended on items that would preserve the building. The adoption of the legislation will benefit all landmarked buildings in the C-3 Zoning District, especially those owned by non-profit organizations that may need to maintain and bring their buildings into compliance with current seismic, ADA and other Building Code requirements but lack the requisite financial resources.

***Reclassification of the Old Saint Mary's Property to a C-3-0 Zoning District***

Prior to the adoption of the Chinatown Mixed-Use Districts (Planning Code Section 801 *et seq*), Old Saint Mary's was located in a C-3 Zoning District. Currently, the property is located in the Chinatown Visitor Retail district, which is immediately contiguous to a C-3-O Zoning District. This minor change of boundary between the C-3-O Zoning District and the Chinatown Mixed-Use Districts does not constitute spot zoning. The proposed zoning change will not affect the use or intensity of Old Saint Mary's. As discussed in the case report, the proposed rezoning of Old Saint Mary's from Chinatown Visitor Retail to a C-3-0 Zoning District will not adversely affect the Chinatown Mixed-Use Districts. In fact, CCDC supports this requested change.

Old Saint Mary's has served both the Chinese and San Francisco communities at large for approximately 156 years. The reclassification of the property allowing the sale of TDRs will enable Old Saint Mary's to complete all the work required to preserve this building so that it can serve the community for many years to come.

***Conclusion***

For the reasons discussed above and in the case report, we respectfully request that this Commission recommend to the Board of Supervisors the adoption and passage of the proposed amendments to Planning Code Section 128 governing the transfer of TDRs and the reclassification of Old Saint Mary's from Chinatown Visitor Retail to a C-3-O Zoning District.

Please feel free to contact me directly if you have any questions or concerns.

Very truly yours,

John C. Callan, Jr.
of
LUCE, FORWARD, HAMILTON & SCRIPPS LLP

cc: Commissioner Michael Antonini
Commissioner Gwyneth Borden
Commissioner William Lee
Commissioner Kathrin Moore
Commissioner Hisashi Sugaya
John Rahaim
Larry Badiner
Tina Tam
Tara Sullivan
Andrea Contreras
Father Charles Kullmann, CSP

ARCHITECTURAL RESOURCES GROUP, INC.
Architects, Planners & Conservators

15 April 2010

Historic Preservation Commission
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
Attention: President Charles Chase and
Honorable Commissioners

Re: Old St. Mary's Cathedral
ARG project number 92018.11
Permit Application Numbers: 9817528 (Master Permit – open)
200310107213 (Phase 1 Permit – complete)
200405042973 (Phase 1 revision – complete)
200510145648 (Phase 2 – complete)

Dear President Chase and Honorable Commissioners:

As you are aware, Old St Mary's Cathedral has undertaken a seismic retrofit project to correct its UMB deficiencies. This project originally was submitted for permit in 1998 but the funding was not available for all the work to be completed at once. Consequently, the project proceeded on a phased basis in order to make the church as safe as possible as funds were raised. The Building Department has cooperated with this approach.

Phase I construction started in December 2002 and was completed in mid 2004. The Phase I work included all of the seismic work except for the strengthening of the bell tower and a small amount of foundation work in the east transept. Briefly, the scope included:

- Installation of new foundations under the Nave and East Transept.
- Wall finishes removed, concrete shear walls installed, and then finishes restored on the east and west walls of the ground floor Auditorium, and the south wall of the East Transept.
- Tube steel braces added in the ground floor Auditorium
- The altar and wall finishes were removed from the north wall of the Sanctuary for installation of steel column and beam bracing on that wall. The altar was reinstalled and all wall finishes restored.
- The north end of the Balcony floor framing was reinforced with additional steel beams. Finishes were removed for the work and then restored.
- The Nave walls were vertically drilled down to the foundation and reinforcing steel ties installed. As part of this process, the ground floor windows on the east and west facades had to be narrowed. The windows were replaced with smaller units similar to the original configuration.
- A horizontal steel truss was added on each side of the Nave roof , interlaced with the existing vertical steel trusses
- The roof valleys at the intersection of the Nave and Transept roof were reinforced with new steel truss members
- The existing roof trusses were seismically tied to the walls.



*Northern California Office*
Pier 9, The Embarcadero
San Francisco, California 94111
*e-mail* arg@argsf.com
*fax* 415.421.0127
415.421.1680
www.argsf.com

- The asphalt shingle roofing was stripped, a plywood roof diaphragm added, and new asphalt shingle roofing installed.
- The roof parapets were braced back to the roof trusses
- The fire sprinkler system upgraded and a fire alarm system added.

The construction of Phase I was completed by Nibbi Brothers Construction for a total cost of $5,997,778. Soft costs for the project design, documentation, and construction administration services were $267,575. Total project costs came to $6,265,353.[1]

Phase II completed the structural work in the bell tower and transept foundation. This work was submitted for permit in November 2005, however the permit was not issued until March 2008. Construction started that summer and was completed in December 2009. The Phase II scope included:

- New foundation buttresses were added at the tower. As part of this work, the granite entry stairs were removed and then carefully reinstalled.
- Concrete shear walls were added to the inside of the tower, from foundation to roof. The wood framed floors and roof were replaced with concrete floor diaphragms.
- As a result of the additional wall thickness added, the plaster vaulting in the Entry was removed and replicated with adaptations to the new wall dimensions.
- As all the HVAC equipment resides in the bell tower, this equipment was replaced and systems upgraded.
- The bell and clock mechanism were removed, rehabilitated, and reinstalled.
- Fire sprinklers were extended into all tower spaces
- The exterior tower louvers were replicated and replaced.
- The roof crosses were removed, rehabilitated, and reinstalled.

The construction of Phase II was also completed by Nibbi Brothers Construction for a total cost of $2,806,363. Soft costs for the project design, documentation, and construction administration services were $157,550, resulting in total project costs of $2,933,913.[1]

Phase III is comprised of the accessibility work triggered by the structural upgrade. These items include:

- Installation of an elevator in the west entry stair to serve the ground floor auditorium, street level, and the main Nave level.
- Rebuilding of the west stair serving the Balcony to accommodate the new elevator.
- Installation of a wheelchair lift to provide access to the raised stage in the ground floor Auditorium.
- Installation of a wheelchair lift to provide access at a half level offset in the ground floor of the East Transept.
- Remodeling of the existing non-accessible restroom at the ground floor East Transept to be an accessible uni-sex facility.
- Installation of wheelchair ramps in the Nave to provide access to the altar platform.
- ADA signage for restroom and accessible routes.

[1] Total project costs quoted for all phases do not include other soft costs such as loan interest and fees, and legal fees and costs, which have not been determined at this time.

ARCHITECTURAL RESOURCES GROUP, INC.
Architects, Planners & Conservators

A cost estimate for Phase III has been prepared by Nibbi Brothers Construction. Total hard costs are estimated to be $420,454. Total soft costs for the necessary design work, documentation, and construction administration services are estimated to be $105,132. Total projects cost are estimated to be $525,586.[1]

None of the Phase III work will be visible from the exterior. As such, we do not anticipate that a Certificate of Appropriateness from the Historic Preservation Commission will be required.

Sincerely,

Andrew G. Blyholder, AIA, LEED AP
Senior Associate

Cc: Vice President Courtney Damkroger
Tina Tam (via email only)
Tara Sullivan (via email only)
Andrea Contreras (via email only)
Fr. Charles Kullman, CSP (via email only)
John C. Callan, Jr., Esp (via email only)

April 8, 2010

San Francisco Planning Dept.
1650 Mission Street, Suite 400
San Francisco, CA 94103

Attn: Ms. Tara Sullivan

Dear Ms. Sullivan,

As parishioners of Old St. Mary's Cathedral we would like to encourage your support for the zoning change and the planning code amendment regarding the sale of our Church's TDRs so that Old St. Mary's would be able to pay for the other safety upgrades required to complete the seismic retrofit.

In order to pay for these life safety upgrades Old St. Mary's needs to sell its "TDR"(Transferable Development Rights). Since our Church is a City designated landmark, it can sell its unused development rights to another property somewhere else in the City that needs additional development rights.

Old St. Mary's Cathedral is an important City landmark, the oldest cathedral in the City, and to preserve this landmark it is, needless to say, very important to finish the seismic retrofit and upgrading of Old St. Mary's.

We sincerely hope and pray that you and the other members of the Planning Commission would approve this very important step to permit Old St. Mary's Cathedral to become fully retrofitted, code compliant and to move forward confidently as our vibrant parish into the future.

Sincerely,

John and Barbara Schmidt

John and Barbara Schmidt
Parishioners of OLd St. Mary's Cathedral

Ms. Josephine Leen
1221 Greenwich St., Apt. 3
San Francisco, CA 94109

April 8, 2010

Zara Sullivan
S.F. Planning Dept
1650 Mission St. #400
SF 94103

Dear Ms. Sullivan

I am a long-time parishioner of Old St. Mary's Cathedral. After eight or more years, retrofitting of the church has been completed, but there is still a large debt to be repaid. Old St. Mary's needs to sell its TDRs to another property elsewhere in the city.

Because the current zoning prohibits the sale of the TDRs, I urge you to amend the Planning Code to C-3-O.

We still need to complete some seismic retrofitting and structural work to comply with the Americans With Disabilities Act.

We need to preserve this historic City Landmark.

Sincerely,

Josephine Leen