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** **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**
Case Number:	2009.1180TZM
Initiated by:	Luce Forward Hamilton & Scripps LLP / Filed 12/22/09
Staff Contact:	Tara Sullivan, Legislative Affairs tara.sullivan@sfgov.org, 415-558-6257
Reviewed by:	AnMarie Rodgers, Manager of Legislative Affairs 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