



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary

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

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
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Reviewed by: AnMarie Rodgers, Manager of Legislative Affairs
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Recommendation: **Recommend Approval**

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The action before the Commission is initiation of amendments to the Planning Code, Zoning Map, and General Plan described below. Initiation does not involve a decision on the substance of the amendments; it merely begins the required 20 day notice period, after which the Commission may hold a hearing and take action on the proposed Code amendments.

CASE # 2009.1180 T: PLANNING CODE AMENDMENT

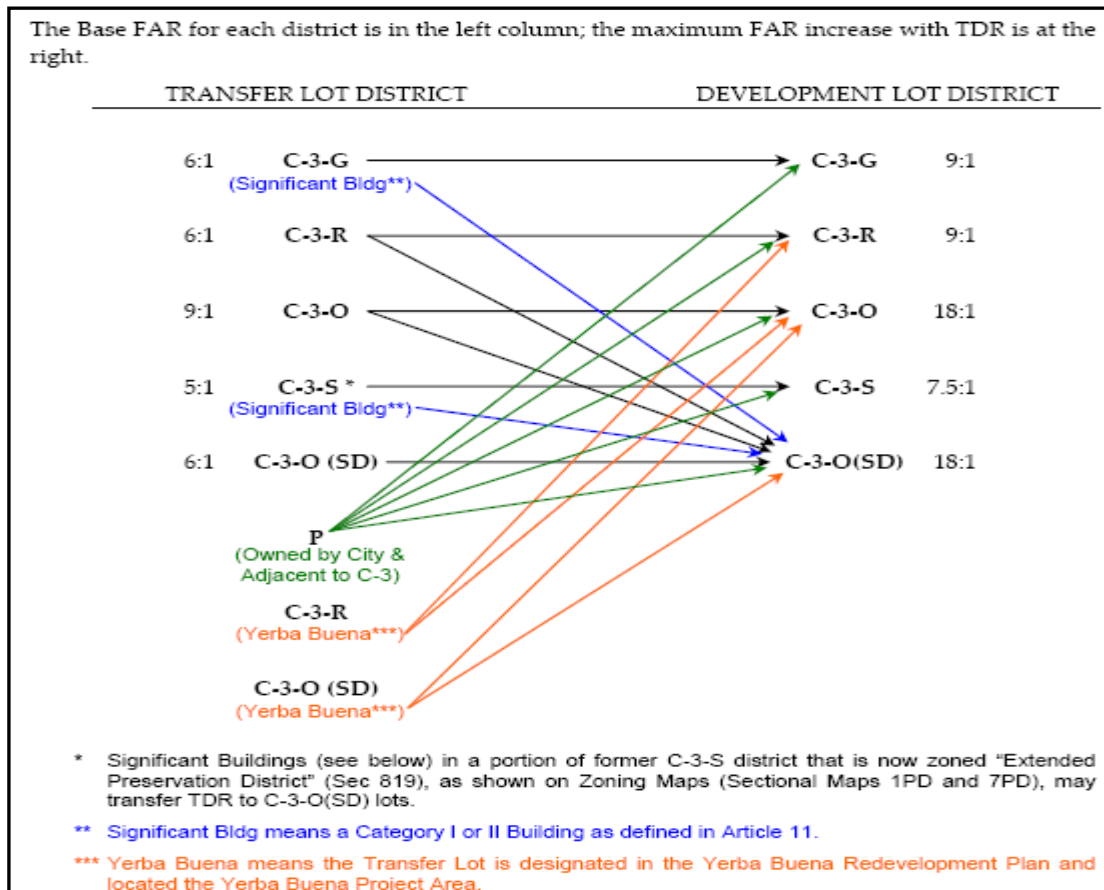
The proposed Ordinance would amend the Planning Code by amending Section 128 (Transfer of Development Rights in C-3 Districts). Specifically, it would do the following:

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 intent to amend the Planning Code 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 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

¹ Planning Code Section 128(a)(3).

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 PLANNING CODE 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	47 days
Posted Notice	10 days	March 15, 2010	March 15, 2010	38 days
Mailed Notice	10 days	March 15, 2010	April 12, 2010	10 days

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the intent to amend the Zoning Map 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 AMENDMENT: Recommendation of Approval

CASE # 2009.1180 M: GENERAL PLAN AMENDMENT

660-680 California Street 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 intent to amend 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
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ENVIRONMENTAL REVIEW

The proposed Ordinance is exempt from environmental review under Section 15060(c)(2) 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.

RECOMMENDATION OF REZONING:	Recommendation of Approval
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Attachments:

- Exhibit A: Draft 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: Map from General Plan: Chinatown Land Use & Density Plan
- Exhibit F: Map from General Plan: Downtown Land Use & Density Plan
- Exhibit E: Letters in Support of Proposal



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution No.

**Initiation of Planning Code Text Change,
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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:

NOES:

ABSENT:

1 [Planning Code—Rehabilitation and Maintenance Requirements for Transfer Lots After Sale
2 of Transferable Development Rights; Zoning Map Amendment—680 California Street (Old St.
3 Mary's Cathedral).]

4 **Ordinance amending Section 128 of the San Francisco Planning Code to require that**
5 **proceeds from the sale of Transferable Development Rights (TDR) be spent on**
6 **rehabilitation and maintenance of the Transfer Lot property, to establish reporting**
7 **procedures regarding the rehabilitation and maintenance, and to allow the sale of TDR**
8 **from an individually landmarked building to any lot in a C-3 zoned district except**
9 **Redevelopment Areas; amending the San Francisco Zoning Map by amending Zoning**
10 **Use District Map ZN01 to change the use classification of 680 California Street (Old St.**
11 **Mary's Cathedral), Block 0241, Lots 011 and 012, from Chinatown Visitor Retail District**
12 **to C-3-0 District; adopting findings, including environmental findings and findings of**
13 **consistency with the General Plan and the Priority Policies of Planning Code Section**
14 **101.1.**

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

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

19 Section 1. Findings.

20 A. On _____ at a duly noticed public hearing, the Planning
21 Commission in Motion No. _____ found that the proposed Planning Code amendment,
22 zoning reclassification, and zoning map amendment were consistent with the City's General
23 Plan and with Planning Code Section 101.1(b). In addition, the Planning Commission, in
24 Motion No. _____, recommended that the Board of Supervisors adopt the zoning
25 map amendment. Copies of said Motion are on file with the Clerk of the Board of Supervisors

1 in File No. _____ and are incorporated herein by reference. The Board finds that
2 the proposed Planning Code amendment, zoning reclassification, and zoning map
3 amendment are consistent with the City's General Plan and with Planning Code Section
4 101.1(b) for the reasons set forth in said Motion.

5 B. Pursuant to Planning Code Section 302, the Board finds that the proposed
6 Planning Code Amendment, zoning reclassification and zoning map amendment will serve the
7 public necessity, convenience and welfare for the reasons set forth in Planning Commission
8 Motion No. _____, which reasons are incorporated herein by reference as though
9 fully set forth.

10 C. Environmental Findings. The Planning Department has determined that the
11 actions contemplated in this Ordinance are in compliance with the California Environmental
12 Quality Act (California Public Resources Code section 21000 et seq.). Said determination is
13 on file with the Clerk of the Board of Supervisors in File No. _____ and is
14 incorporated herein by reference.

15
16 Section 2. The San Francisco Planning Code is hereby amended by amending
17 Section 128, to read as follows:

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

19 (a) Definitions.

20 (1) "Development Lot." A lot to which TDR may be transferred to increase the
21 allowable gross floor area of development thereon beyond that otherwise permitted by Section
22 124.

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

24 (3) "Preservation Lot." A parcel of land on which is either (i) a Significant or
25 Contributory building (as designated pursuant to Article 11); or (ii) a Category V Building that

1 has complied with the eligibility requirement for transfer of TDR as set forth in Section
2 1109(c); or (iii) a structure designated an individual landmark pursuant to Article 10 of this
3 Code. The boundaries of the Preservation Lot shall be the boundaries of the Assessor's lot on
4 which the building is located at the time the ordinance or, as to Section 1109(c), resolution,
5 making the designation is adopted, unless boundaries are otherwise specified in the
6 ordinance.

7 (4) "Transfer Lot." A Preservation Lot located in a C-3 District from which TDR may
8 be transferred. A lot zoned P (public) may in no event be a Transfer Lot. unless a building on
9 that lot is (i) owned by the City and County of San Francisco, and (ii) located in a P District
10 adjacent to a C-3 District, and (iii) designated as an ~~historical~~ individual landmark ~~by pursuant to~~
11 Article 10 of this Code, ~~or~~ designated as a Category I Significant Building ~~by pursuant to~~ Article
12 11 of this Code, ~~and or~~ listed ~~as a National Historical Landmark~~ on the National Register of
13 Historical Register Places, ~~and (iv) the TDR proceeds are used to finance, in whole or in part, a~~
14 ~~project to rehabilitate and restore the building in accordance with the Secretary of Interior standards.~~
15 For the purposes of Section 128(b), a lot zoned P which satisfies the criteria of this subsection
16 (4) to qualify as a "Transfer Lot" shall be deemed to have an allowable gross floor area of
17 7.5:1 under Section 124.

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

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

23 (b) Amount of TDR Available for Transfer. The maximum TDR available for transfer
24 from a Transfer Lot consists of the difference between ~~(aa)~~ the allowable gross floor area
25

1 permitted on the Transfer Lot by Section 124 and (~~bbii~~) the gross floor area of the
2 development located on the Transfer Lot.

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

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

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

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

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

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

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

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

23 (2) TDR may not be transferred for use on any lot on which is or has been located a
24 Significant or Contributory building; provided that this restriction shall not apply if the
25 designation of a building is changed to Unrated; nor shall it apply if the City Planning

1 Commission finds that the additional space resulting from the transfer of TDR is essential to
2 make economically feasible the reinforcement of a Significant or Contributory building to meet
3 the standards for seismic loads and forces of the ~~1975~~-Building Code, in which case TDR may
4 be transferred for that purpose subject to the limitations of this Section and Article 11,
5 including Section 1111.6. Any alteration shall be governed by the requirements of Sections
6 1111 to 1111.6.

7 (3) Notwithstanding any other provision of this Section, development on a
8 Development Lot is limited by the provisions of this Code, other than those on floor area ratio,
9 governing the approval of projects, including the requirements relating to height, bulk,
10 setback, sunlight access, and separation between towers, and any limitations imposed
11 pursuant to Section 309 review applicable to the Development Lot. The total allowable gross
12 floor area of a development on a Development Lot may not exceed the limitation imposed by
13 Section 123(c).

14 (d) Effect of Transfer of TDR.

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

22 (e) Procedure for Determining TDR Eligibility.

23 (1) In order to obtain a determination of whether a lot is a Transfer Lot and, if it is, of
24 the amount of TDR available for transfer, the owner of record of the lot may file an application
25 with the Zoning Administrator for a Statement of Eligibility. The application for a Statement of

1 Eligibility shall contain or be accompanied by plans and drawings and other information which
2 the Zoning Administrator determines is necessary in order to determine whether a Statement
3 of Eligibility can be issued. Any person who applies for a Statement of Eligibility prior to
4 expiration of the time for request of reconsideration of designation authorized in Section 1105
5 shall submit in writing a waiver of the right to seek such reconsideration.

6 (2) The Zoning Administrator shall, upon the filing of an application for a Statement
7 of Eligibility and the submission of all required information, issue either a proposed Statement
8 of Eligibility or a written determination that no TDR are available for transfer and shall mail that
9 document to the applicant and to any other person who has filed with the Zoning Administrator
10 a written request for a copy, and shall post the proposed Statement of Eligibility or written
11 determination on the Planning Department website. Any appeal of the proposed Statement of
12 Eligibility or determination of noneligibility shall be filed with the Board of Permit Appeals
13 within 20 days of the date of issuance of the document. If not appealed, the proposed
14 Statement of Eligibility or the determination of noneligibility shall become final on the 21st day
15 after the date of issuance. The Statement of Eligibility shall contain at least the following
16 information: (i) the name of the owner of record of the Transfer Lot; (ii) the address, legal
17 description and Assessor's Block and Lot of the Transfer Lot; (iii) the C-3 use district within
18 which the Transfer Lot is located; (iv) ~~whether the Transfer Lot is a Preservation Lot or~~
19 ~~Development Lot; (v) if a Preservation Lot,~~ whether the Transfer Lot contains a Significant or
20 Contributory building, a Category V building, or an Article 10 individually designated landmark;
21 (vi) the amount of TDR available for transfer; and (vi) the date of issuance.

22 (3) Once the proposed Statement of Eligibility becomes final, whether through lack
23 of appeal or after appeal, the Zoning Administrator shall record the Statement of Eligibility in
24 the Office of the County Recorder. The County Recorder shall be instructed to mail the
25 original of the recorded document to the owner of record of the Transfer Lot and, if a copy of

1 the document is presented at the time of the recordation, shall conform the copy and mail it to
2 the Zoning Administrator.

3 (f) Cancellation of Eligibility.

4 (1) If reasonable grounds should at any time exist for determining that a building on
5 a Preservation Lot may have been altered or demolished in violation of Articles 10 or 11,
6 including Sections 1110 and 1112 thereof, the Zoning Administrator may issue and record
7 with the County Recorder a Notice of Suspension of Eligibility for the affected lot and, in cases
8 of demolition of a Significant or Contributory building, a notice that the restriction on the floor
9 area ratio of a replacement building, pursuant to Section 1114, may be applicable and shall
10 mail a copy of such notice to the owner of record of the lot. The notice shall provide that the
11 property owner shall have 20 days from the date of the notice in which to request a hearing
12 before the Zoning Administrator in order to dispute this initial determination. If no hearing is
13 requested, the initial determination of the Zoning Administrator is deemed final on the twenty-
14 first day after the date of the notice, unless the Zoning Administrator has determined that the
15 initial determination was in error.

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

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

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

18 (g) Procedure for Transfer of TDR.

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

1 (2) When TDR are transferred, they shall be identified in each Certificate of Transfer
2 by a number. A single unit of TDR transferred from a Transfer Lot shall be identified by the
3 number "1." Multiple units of TDR transferred as a group for the first time from a Transfer Lot
4 shall be numbered consecutively from "1" through the number of units transferred. If a fraction
5 of a unit of TDR is transferred, it shall retain its numerical identification. (For example, if 5,000-
6 1/2 TDR are transferred in the initial transfer from the Transfer Lot, they would be numbered
7 "1 through 5,000 and one-half of 5,001.") TDR subsequently transferred from the Transfer Lot
8 shall be identified by numbers taken in sequence following the last number previously
9 transferred. (For example if the first units of gross floor area transferred from a Transfer Lot
10 are numbered 1 through 10,000, the next unit transferred would be number 10,001.) If multiple
11 units transferred from a Transfer Lot are subsequently transferred separately in portions, the
12 seller shall identify the TDR sold by numbers which correspond to the numbers by which they
13 were identified at the time of their transfer from the Transfer Lot. (For example, TDR
14 numbered 1 through 10,000 when transferred separately from the Transfer Lot in two equal
15 portions would be identified in the two Certificates of Transfer as numbers 1 through 5,000
16 and 5,001 through 10,000.) Once assigned numbers, TDR retain such numbers for the
17 purpose of identification through the process of transferring and using TDR. The phrase
18 "numerical identification," as used in this section, shall mean the identification of TDR by
19 numbers as described in this Subsection.

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

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

7 (i) For transfers from the Transfer Lot only:

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

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

11 (cc) A notice, prominently placed and in all capital letters, preceded by the
12 underlined heading "Notice of Restriction," stating that the transfer of TDR from the Transfer
13 Lot permanently reduces the development potential of the Transfer Lot by the amount of TDR
14 transferred, with reference to the provisions of this Section.

15 (ii) For all transfers:

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

18 (bb) The amount of TDR transferred; and

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

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

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

24 (ff) A reference to the Statement of Eligibility, including its recorded instrument
25 number and date of recordation, and a recital of all previous transfers of the TDR, including

1 the names of the transferors and transferees involved in each transfer and the recorded
2 instrument number and date of recordation of each Certificate of Transfer involving the TDR,
3 including the transfer from the Transfer Lot which generated the TDR.

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

11 (6) Each duly executed and acknowledged Certificate of Transfer containing the
12 information required herein shall be presented for recordation in the Office of the County
13 Recorder and shall be recorded by the County Recorder. The County Recorder shall be
14 instructed to mail the original Certificate of Transfer to the person and address designated
15 thereon and shall be given a copy of the Certificate of Transfer and instructed to conform the
16 copy and mail it to the Zoning Administrator.

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

18 (1) When the use of TDR is necessary for the approval of a building permit for a
19 project on a Development Lot, the Superintendent of the Bureau of Building Inspection shall
20 not approve issuance of the permit unless the Zoning Administrator has issued a written
21 certification that the owner of the Development Lot owns the required number of TDR. When
22 the transfer of TDR is necessary for the approval of a site permit for a project on a
23 Development Lot, the Zoning Administrator shall impose as a condition of approval of the site
24 permit the requirement that the Superintendent of the Bureau of Building Inspection shall not
25

1 issue the first addendum to the site permit unless the Zoning Administrator has issued a
2 written certification that the owner of the Development Lot owns the required number of TDR.

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

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

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

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

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

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

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

21 (iii) An agreement whereby the owner of the Development Lot shall indemnify the
22 City against any and all loss, cost, harm or damage, including attorneys' fees, arising out of or
23 related in any way to the assertion of any adverse claim to the TDR, including any loss, cost,
24 harm or damage occasioned by the passive negligence of the City and excepting only that
25 caused by the City's sole and active negligence. The indemnity agreement shall be secured

1 by a first deed of trust on the Development Lot financial balance sheet certified by an auditor or a
2 corporate officer showing that the owner has assets equal to or greater than the value of the TDR, or
3 other security satisfactory to ~~the Department of City~~ Planning Department and the City Attorney.

4 (3) If the Zoning Administrator determines that the project applicant has complied
5 with the provisions of Subsection (h)(2) and all other applicable provisions of this Section, and
6 that the applicant is the owner of the TDR, that officer shall transmit to the Superintendent of
7 the Bureau of Building Inspection, with a copy to the project applicant, written certification that
8 the owner of the Development Lot owns the TDR. Prior to transmitting such certification, the
9 Zoning Administrator shall prepare a document entitled Notice of Use of TDR stating that the
10 TDR have been used and may not be further transferred, shall obtain the execution and
11 acknowledgment on the Notice of the owner of record of the Development Lot, shall execute
12 and acknowledge the Notice, shall record it in the Office of the County Recorder, and shall
13 mail to the owner of record of the Development Lot a conformed copy of the recorded Notice.
14 If the Zoning Administrator determines that the project applicant is not the owner of the TDR,
15 or has not complied with all applicable provisions of this Section, that determination shall be
16 set forth in writing along with the reasons therefor~~e~~. The Zoning Administrator shall either
17 transmit certification or provide a written determination that certification is inappropriate within
18 10 business days after the receipt of all information required pursuant to Subsection (h)(2).

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

20 (1) The owner of a Development Lot for which a Notice of Use of TDR has been
21 recorded may apply for a Cancellation of Notice of Use if (i) the building permit or site permit
22 for which the Notice of Use was issued expires or was revoked or cancelled prior to
23 completion of the work for which such permit was issued and the work may not be carried out;
24 or (ii) any administrative or court decision is issued or any ordinance or initiative or law is
25

1 adopted which does not allow the applicant to make use of the permit; or (iii) a portion or all of
2 such TDR are not used.

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

12 (3) Once a Cancellation of Notice of Use of TDR has been recorded, the owner of
13 the Development Lot may apply for a Statement of Eligibility in order to transfer the TDR
14 identified in that document. The procedures and requirements set forth in this Section
15 governing the transfer of TDR shall apply to the transfer of TDR from the owner of a
16 Development Lot after a Notice of Use has been filed, except for the provisions of this Section
17 permanently restricting the development potential of a Transfer Lot upon the transfer of TDR;
18 provided, however, that the district or districts to which the TDR may be transferred shall be
19 the same district or districts to which TDR could have been transferred from the Transfer Lot
20 that generated the TDR.

21 (j) Erroneous Notice of Use; Revocation of Permit. If the Zoning Administrator
22 determines that a Notice of Use of TDR was issued or recorded in error, that officer may direct
23 the Superintendent of the Bureau of Building Inspection to suspend any permit issued for a
24 project using such TDR, in which case the Superintendent shall comply with that directive.
25 The Zoning Administrator shall thereafter conduct a noticed hearing in order to determine

1 whether the Notice of Use of TDR was issued or recorded in error. If it is determined that the
2 Notice of Use of TDR was issued or recorded in error, the Superintendent of the Bureau of
3 Building Inspection shall revoke the permit; provided, however, that no permit authorizing
4 such project shall be revoked if the right to proceed thereunder has vested under California
5 law. If it is determined that the Notice of Use of TDR was not issued or recorded in error, the
6 permit shall be reinstated.

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

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

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

22 (2) Prior to the issuance of the Certificate of Transfer, the owner of the Transfer Lot shall
23 submit a report to the Zoning Administrator containing the following information: (i) legal documents
24 of sale of the TDR showing the sale price of the TDR; (ii) a report detailing the preservation and
25 rehabilitation work to be done to the Transfer Property, including an itemized list of the cost of the

1 work; (iii) a construction schedule; (iv) copies of any permits obtained for the work; and (v) any such
2 other documentation as the Zoning Administrator may require to determine compliance with the
3 requirements of this subsection 128(l).

4 (3) Within one year of the sale of TDR, the owner of the Transfer Property shall submit a
5 report to the Zoning Administrator showing completion of all required preservation and rehabilitation
6 work. Such report shall include: (i) information detailing the work completed; (ii) copies of all permits
7 obtained for the work, including any Certificates of Appropriateness or Permits to Alter; (iii) any
8 inspection reports or other documentation from the Department of Building showing completion of the
9 work; (iv) itemized receipts of payment for work performed; and (v) any such other documentation as
10 the Zoning Administrator may require to determine compliance with the requirements of this subsection
11 128(l). The deadline for completion of the work and submittal of this report may be extended at the
12 discretion of the Zoning Administrator upon application of the owner and only upon a showing that the
13 owner has diligently pursued all required permits and completion of the work.

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

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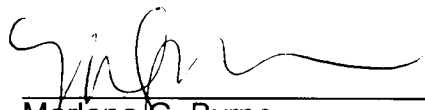
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1 Section 3. In accordance with Planning Code Sections 106 and 302, the following
2 changes are hereby adopted as amendments to Zoning Use District Map ZN01 of the Zoning
3 Map of the City and County of San Francisco:
4

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)	<u>C-3-O</u>

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

13 By:

14 
15 Marlena G. Byrne
16 Deputy City Attorney
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Parcel Map

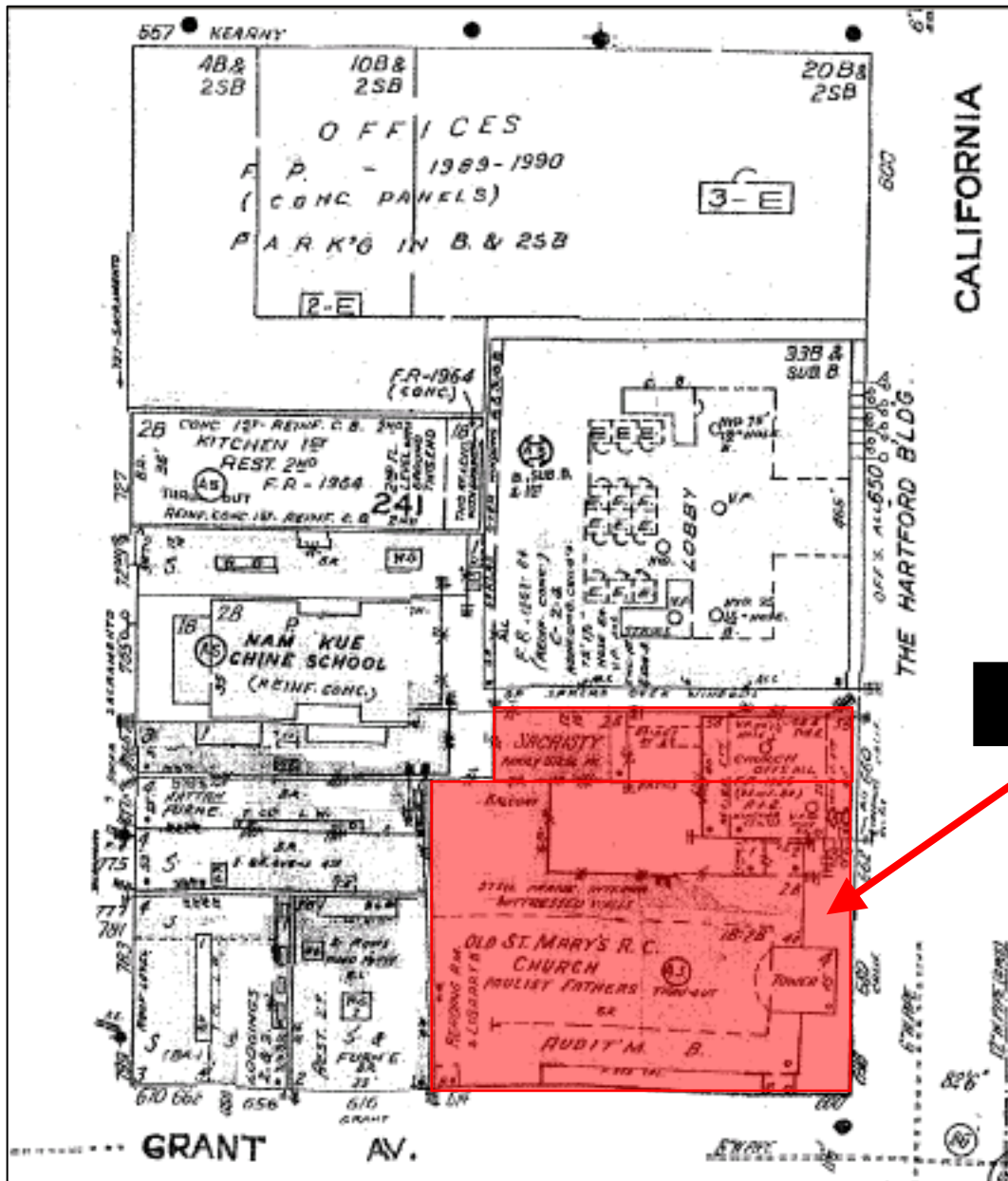


SUBJECT PROPERTIES



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

Sanborn Map*



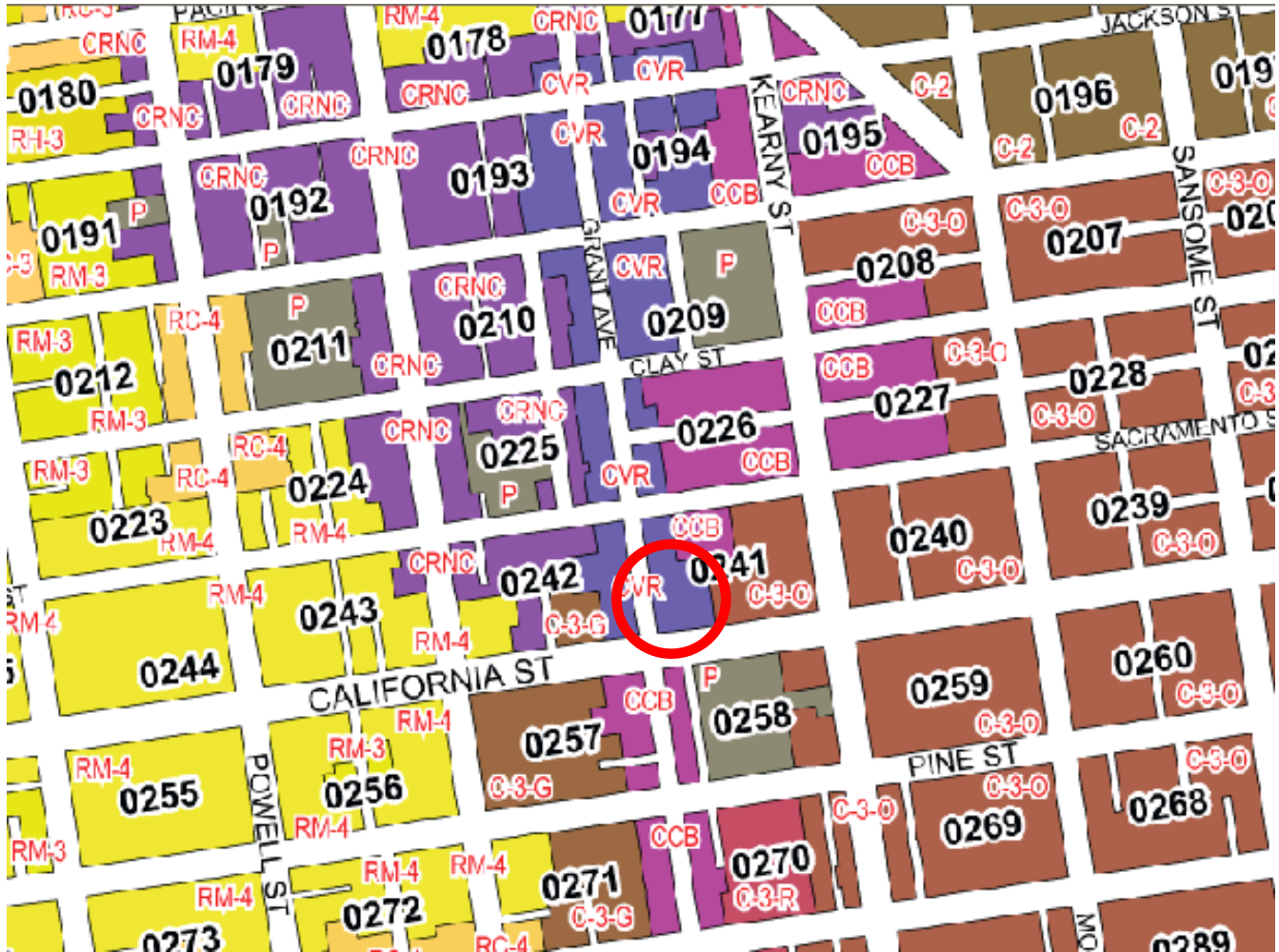
SUBJECT PROPERTIES

*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

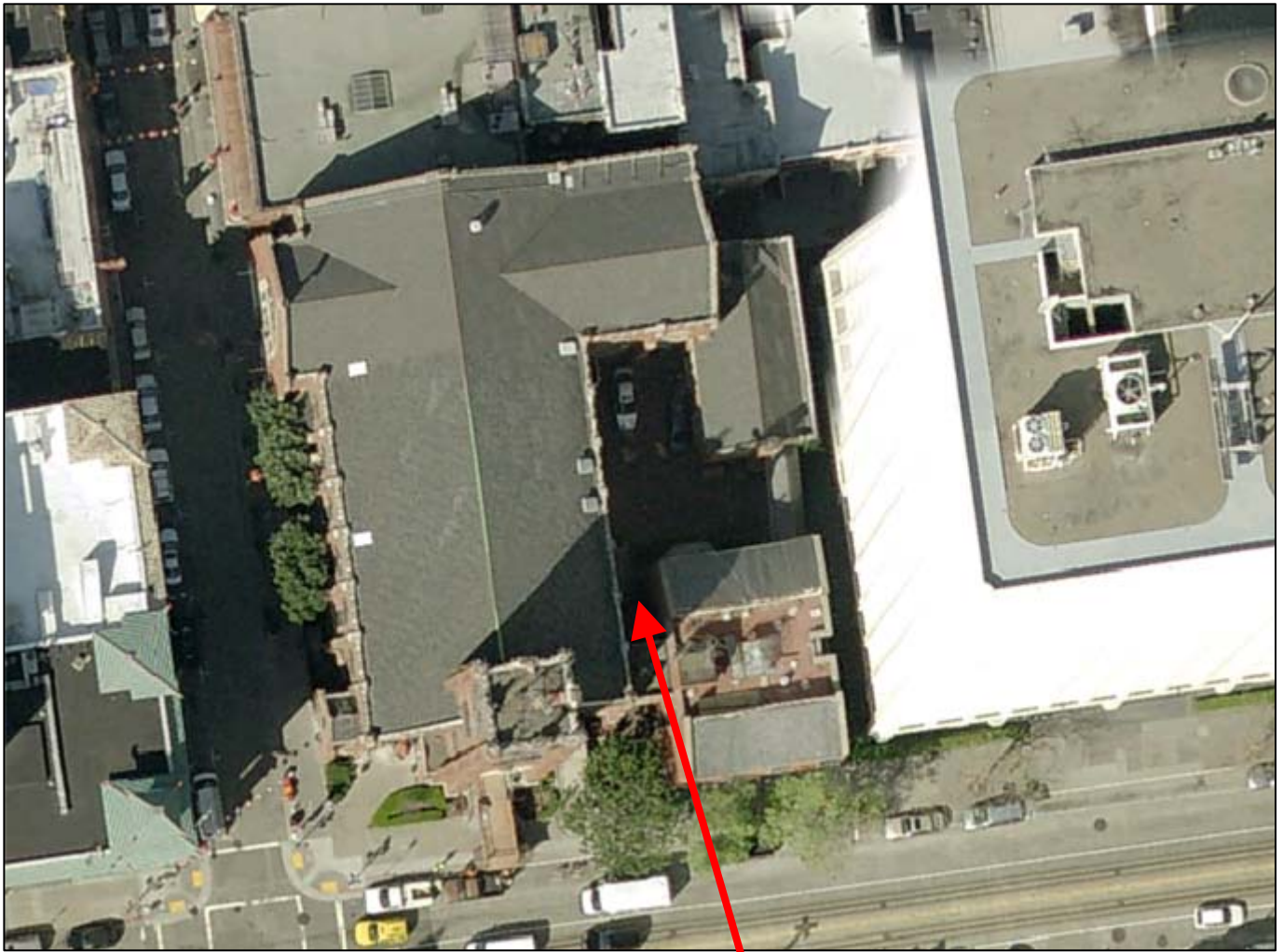
MB-OS MB-O

PUBLIC DISTRICT

P



Aerial Photo

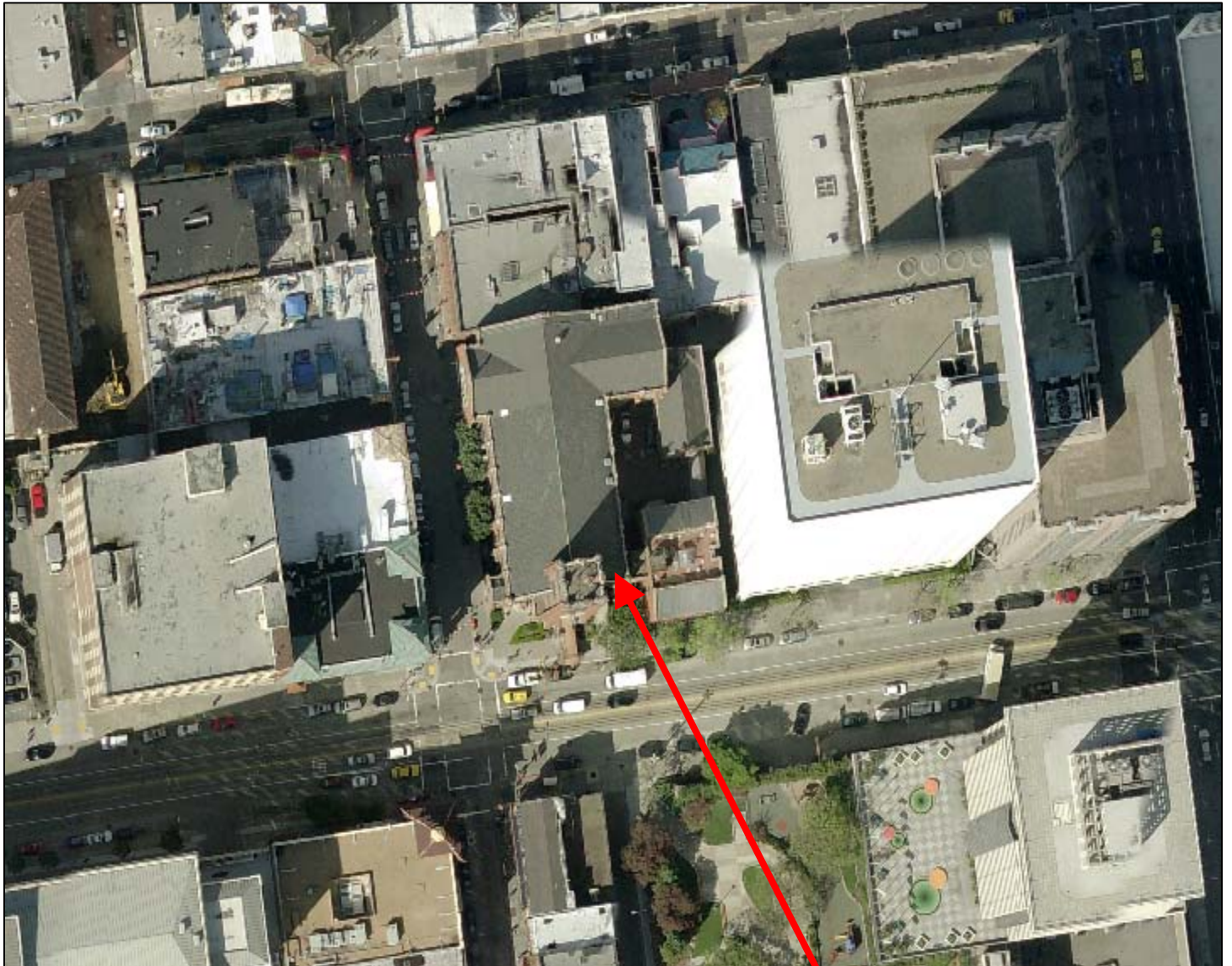


SUBJECT
PROPERTIES



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

Aerial Photo



SUBJECT
PROPERTIES



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



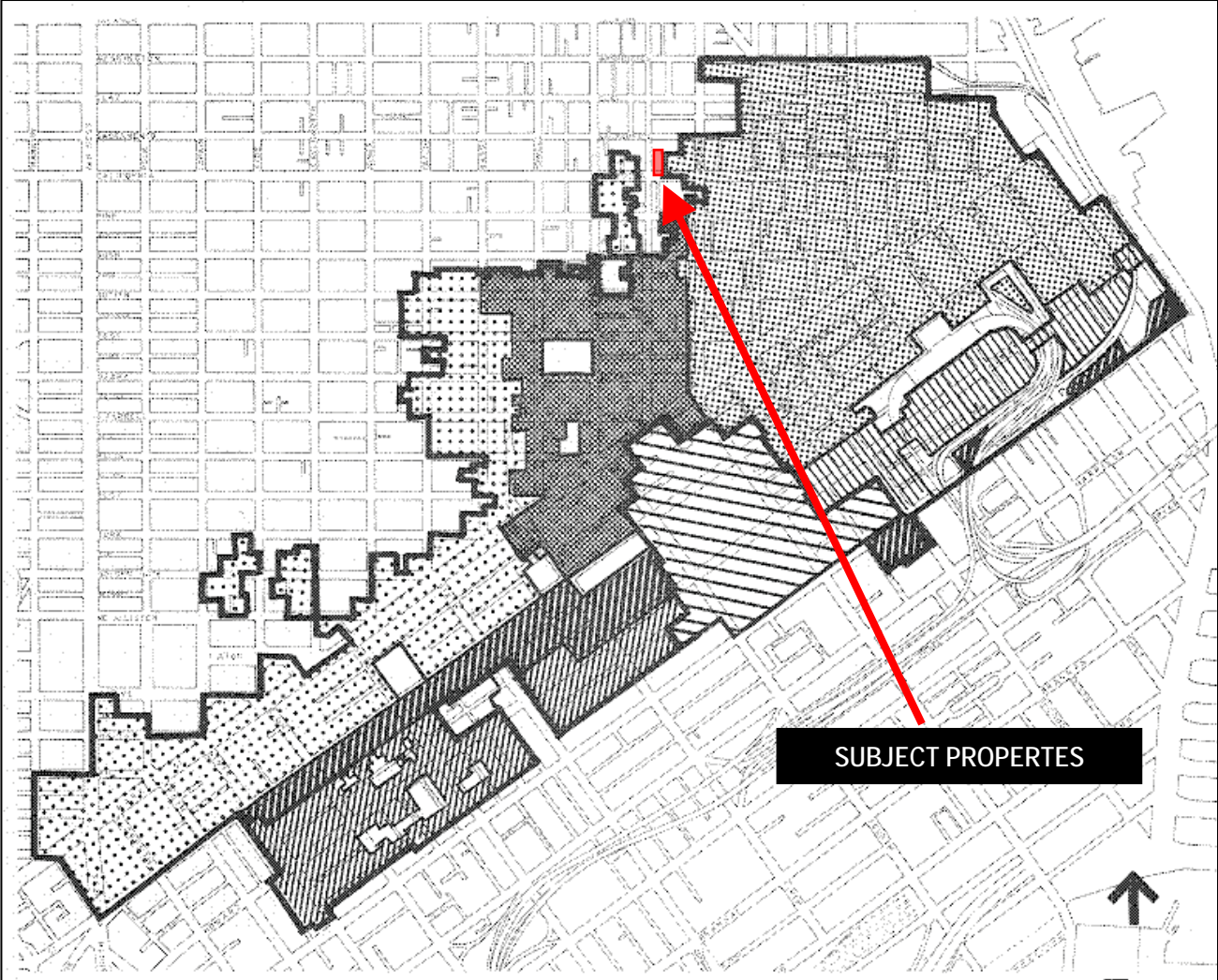
Case Number 2009.1180TZM
Old St. Mary's Church
660-680 California Street

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

0 400FT
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

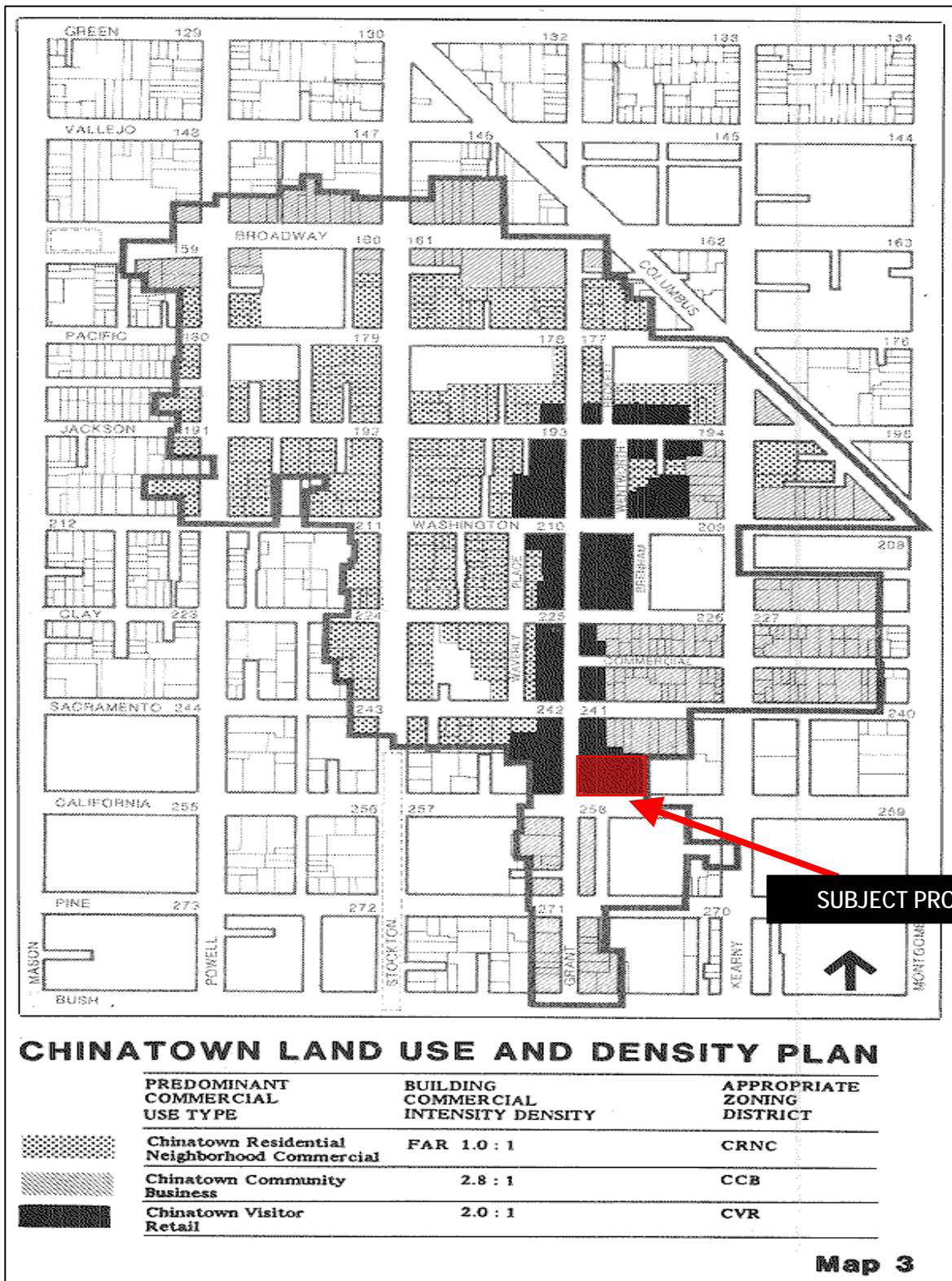
Downtown Land Use & Density Plan Map



SUBJECT PROPERTIES





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

Chinatown Land Use & Density Plan Map



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.

0 100 200 300 400 500 Yards  Printed: 5 April, 2010

