



SAN FRANCISCO PLANNING DEPARTMENT

June 1, 2007

Peter Jordan
McDonald's USA, LLC
2999 Oak Road, Suite 900
Walnut Creek, CA 94597

**RE: 235 Front Street
Block 0237, Lot 004
C-3-O (Downtown Office) District
Category V Unrated Building
Front-California Conservation District**

This letter addresses an issue that was raised during a project review meeting that was held on March 16, 2007 concerning a Category V Unrated Building in the Front-California Conservation District and whether it is eligible to sell its transferable development rights (TDR) despite not being formally designated as a Compatible Replacement Building.

The site was previously occupied by a three-story brick building that was constructed in 1909. The building was designated a Category IV Contributory Building in the Front-California Conservation District pursuant to Sections 1102(d) and 1104 of the Planning Code. In 1989, the building was severely damaged during the Loma Prieta earthquake. Several independent assessments from structural engineers recommended that the building be demolished. The Bureau of Building Inspection, Department of Public Works determined that the building was a public health and safety hazard and issued a demolition order, and the building was subsequently demolished.

Pursuant to Section 1113, no new or replacement structure shall be constructed in a Conservation District unless it is found that the structure is compatible in scale and design with the Conservation District in which it is located.

In 1993, an application for a Section 309 Determination of Compliance was filed to construct a replacement structure on the site. The proposal was a 34-foot-high, one-story-plus-mezzanine building containing approximately 9,625 square feet. Since the proposal did not require any exceptions, did not exceed a height of 75 feet, and did not exceed 50,000 square feet, the Section 309 application was reviewed administratively. Pursuant to Section 1113, the replacement structure was determined to be compatible in scale and design with the Front-California Conservation District, and the Section 309 application was approved on September 24, 1993. However, the replacement structure was not formally designated as a Compatible Replacement Building pursuant to Sections 309, 1109(c), and 1113 and Appendix H of Article 11 of the Planning Code, which would have made the property eligible to transfer its TDR.

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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Pursuant to Section 1109(c), a Category IV Contributory Building is eligible to transfer its TDR according to the procedures set forth in Section 128. The alteration or demolition of a Category IV Contributory Building in violation of Sections 1110 or 1112 eliminates that property's eligibility to transfer its TDR. However, the Planning Code did not contemplate a situation in which a Category IV Contributory Building would have to be demolished due to irreparable damage sustained in a natural disaster. Since the demolition of the Category IV Contributory Building on the site was necessary to ensure public health, safety, and welfare, it would be contrary to the spirit of the Planning Code to penalize the property owner by prohibiting the transfer of TDR from the property.

For these reasons, I am formally determining that the Category V Unrated Building at 235 Front Street is a Compatible Replacement Building. As such, the property is eligible to transfer its TDR according to the procedures set forth in Section 128.

If you have substantial reason to believe that there was an error in the interpretation of the Planning Code or abuse of discretion on the part of the Zoning Administrator, you may file an appeal within fifteen (15) days of the date of this letter. For further information, please contact the Board of Appeals in person at 1660 Mission Street, Room 3036 or call (415) 575-6880.

If you have any questions regarding this matter, please contact Michael Li at (415) 558-6396.

Sincerely,

Lawrence B. Badiner
Zoning Administrator

Attachments (3)

Cc: Sue Hestor – 870 Market Street – SF 94102
SF Heritage – 2007 Franklin Street – SF 94109

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