PLANNING DEPARTMENT

City and County of San Francisco ● 1660 Mission Street, Suite 500 ● San Francisco, California ● 94103

RECEPTION	DIRECTOR'S OFFICE	ZONING ADMINISTRATOR	FAX:	INTERNET WEB SITE
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CLERICALLY AMENDED

February 25, 2005

Mr. Allan H. Cadgene
2920 Webster Street
San Francisco, CA 94123

RE: Request for Written Determination
ADDRESS: 1010 Gough Street
BLOCK/LOT: 0737 / 009
ZONING: Redevelopment Area to remand to Planning Jurisdiction in January, 2009
Possible future RM-4 base Zoning
PROJECT: Family Services Purchase and Leaseback
SUBJECT: Planning Code Compliance

Dear Mr. Cadgene:

This letter is in response to your request for a Zoning Administrator determination in answer to several planning and zoning questions about permitted uses for the subject site.

The property is currently under the jurisdiction of the Redevelopment Agency, and will remand to Planning Department jurisdiction on January 1, 2009. Please note that we can comment only on current Planning Code requirements and provisions, some of which could be revised in the future, although there are no specific proposals to do so of which we are aware.

In response to your questions, I have made the following determinations:

1. Section 209.9(e), allowing principal and conditional uses in RC-1 as conditional uses, is applicable to this site, which contains Landmark Number 111. Therefore Section 206.3, which broadens the uses permitted in RC-1 to some uses allowed in C-1 districts, is also applicable to this site. Please pay particular attention to sub-section (2), which requires findings that the CU “is essential for retaining & preserving the landmark.”
2. I disagree with your statement regarding Section 206.3, which describes the commercial uses permitted in RC-1 Districts as "those permitted in C-1 Districts, located in or below the ground story only." The meaning of this is not, as you suggest, to allow uses principally permitted on the ground floor in C-1 Districts as conditional uses throughout a building in RC-1 Districts, but rather to permit principal uses allowed on any level in C-1, as conditional uses only on or below the ground story on RC-1 sites.
3. The current uses of the property, as administrative offices for Family Services and as on-site service providers, would be classified as follows, if they were all principal uses: social services are principally permitted as of right on the ground floor and conditionally permitted above the ground floor (from RC-1), while the office use is conditionally permitted on the ground floor and not permitted above the ground floor, because C-1 uses are conditionally permitted in this district on or below the ground floor.

4. The existing uses that, if proposed for approval now, would require conditional use authorization, are considered to have "automatic CUs" subject to Section 178, and can continue subject to 178(b), and be altered or enlarged subject to 178(c). This applies to the administrative office uses on the ground floor. Existing uses that are not permitted, such as office above the ground floor, are considered legal non-conforming uses.

5. In areas above the ground floor where office use has been supplanted by on-site social service functions (a principally permitted use), I have determined that such space can be returned to offices (a legal non-conforming use). Although *new* office use above the ground floor would not be permitted, the social service function in this case has operated as an accessory use to the office use, not as a separate principal use. Therefore, the principal legal non-conforming office use has not been discontinued or abandoned, and the accessory social service or principal office use can continue, or be redistributed as needed, as long as the accessory area for social services does not exceed one-third of the area for office use.

6. Any office use above the ground floor is considered a nonconforming use, as defined and restricted in Sections 180 and 181. The major maintenance items (painting, roof, electrical-mechanical systems) to which you refer would constitute "ordinary maintenance expenses," and would not be considered a reconstruction.

7. The property, structure and uses are subject to the "calamity and Act of God" replacement requirements of Section 181(d).

8. There is no termination date in our records for the nonconforming uses in this building. Termination of such uses is subject only to the abandonment restrictions of Section183. Section 186 does not seem applicable, as the zoning restrictions on this site are those for RC districts, which are excluded from termination requirements.

9. Regarding residential use, Variances would need to be sought and justified for relief from code requirements of rear yard, dwelling unit exposure, usable open space, parking and/or other quantitative requirements for residential use in this district. The parking “credit” extant for this building applies only to commercial parking requirements, and is not transferable to residential parking requirements.

Please direct questions regarding this letter to Senior Planner Craig Nikitas of my staff at (415) 558-6306, or via e-mail at craig.nikitas@sfgov.org.

Any aggrieved person may appeal this decision to the Board of Appeals within 15 days of the date hereof. For further information, please contact the Board of Appeals in person at 1660 Mission Street, Room 3036, or by telephone at 415/575-6880.

Yours truly,

Lawrence B. Badiner
Zoning Administrator

USE	In **RM-4** District	In **RC-1** District per §209.9(e)	In **C-1** District per §206.3	Result @ subject site
Admin. Offices at or below the Ground Floor	not permitted – goes to RC-1 uses	not permitted– goes to C-1 uses	**principally permitted**	**conditionally permitted**
Admin. Offices above the Ground Floor	not permitted – goes to RC-1 uses	not permitted – goes to C-1 uses	principally permitted	**new not permitted, existing is legal non-conforming**
Social Services at or below the Ground Floor (non-profit)	not permitted – goes to RC-1 uses	principally permitted	principally permitted	principally permitted
Social Services above the Ground Floor (non-profit)	not permitted – goes to RC-1 uses	conditionally permitted	principally permitted	principally permitted