

RESOLUTION NO. 25-2008

Adopted April 15, 2008

**AUTHORIZING A SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS
IN THE LAWSUIT ENTITLED SAN FRANCISCO HISTORIC RESOURCES
ADVOCATES, ET AL. V. SAN FRANCISCO REDEVELOPMENT AGENCY, ET
AL., (SAN FRANCISCO SUPERIOR COURT, CASE NO. 07-507948, FILED DEC.
26, 2007) (CLAIM AGAINST THE ENVIRONMENTAL REVIEW OF AGENCY'S
AMENDMENT TO ITS TRANSFER OF DEVELOPMENT RIGHTS POLICY);
RINCON POINT - SOUTH BEACH REDEVELOPMENT PROJECT AREA;
YERBA BUENA CENTER REDEVELOPMENT PROJECT AREA**

BASIS FOR RESOLUTION

1. On May 22, 2001, the Redevelopment Agency of the City and County of San Francisco ("Agency") adopted, per Resolution No. 82-2001, a policy regarding the Transfer of Development Rights ("TDR Policy"). The TDR Policy applies Section 128 of the Planning Code ("Section 128") to certain redevelopment project areas that have a C-3 classification in the Zoning District Use Maps of the Planning Code, i.e., portions of the Rincon Point - South Beach ("RPSB") Redevelopment Project Area and the Yerba Buena Center Redevelopment Project Area. The TDR Policy gives the Agency the authority "to approve and concur as to a Statement of Eligibility prepared by the Zoning Administrator if the Agency Commission determines that such authorization will promote the goals of the applicable Redevelopment Plan and enable the preservation, enhancement or maintenance of a Landmark, Significant Building, or Contributory Building," as defined in Section 128. Section 3 of Attachment A to Resolution No. 82-2001.
2. In adopting the TDR Policy, the Agency determined that its approval was categorically exempt under the California Environmental Quality Act ("CEQA") because the environmental impact report for the Downtown Plan of the City and County of San Francisco ("City") had already evaluated the Section 128 TDR program that the Agency was implementing.
3. On October 16, 2007, the Agency Commission amended the TDR Policy, per Resolution No. 118-2007, to authorize Agency concurrence in Statements of Eligibility where the Agency had already ensured the preservation of the historic building that was the subject of the Statement of Eligibility ("TDR Policy Amendment"). Under the TDR Policy Amendment, the Agency Commission may authorize, at a public hearing, the Agency's concurrence in a Statement of Eligibility for a previously-preserved landmark building if it finds that the concurrence will promote the preservation of another historic building "owned by the Agency" or "in or near any project area under the jurisdiction of the Agency." The TDR Policy Amendment does not expand the TDR program because it only authorizes TDRs from buildings that have already received a Zoning Administrator-approved Statement of Eligibility under Section 128.

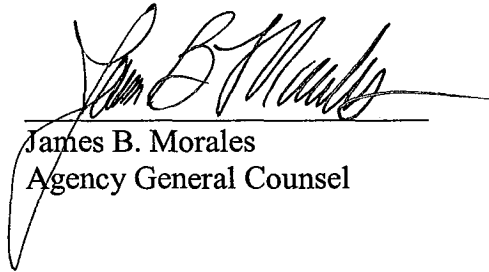
4. In adopting the TDR Policy Amendment, the Agency determined that it was categorically exempt under Section 15305 of the CEQA Guidelines. The Agency relied on the 2001 analysis that the original TDR Policy was categorically exempt and found that the TDR Policy Amendment constituted a minor alteration in land use limitations.
5. Also on October 16, 2007, the Agency Commission applied the TDR Policy Amendment and authorized, per Resolution No. 119-2007, the Executive Director's concurrence in the Statement of Eligibility for the Rincon Annex U.S. Post Office Building ("Rincon Annex"), a building that the City and County of San Francisco ("City") had designated as a landmark building in 1980. (Landmark No. 107, Appendix A to Article 10 of the Planning Code). The Agency Commission determined that: 1) the building was in a C-3 District of the RP-SB Redevelopment Project Area; 2) the Zoning Administrator had determined, on October 10, 2007, that the building qualified for a Statement of Eligibility for TDR under Section 128 of the Planning Code; 3) the RPSB Redevelopment Plan had already ensured the preservation of this landmark building; and 4) the owner proposed to transfer TDR certificates constituting 171,308 square feet of TDR to the Agency for its sale and its commitment of the proceeds to preserve, enhance, and maintain other historic buildings.
6. On December 26, 2007, San Francisco Historic Resources Advocates, an unincorporated association, and G. Bland Platt ("Petitioners") filed, in the San Francisco Superior Court, a Petition for Writ of Mandamus alleging that the Agency's approval of the TDR Policy Amendment violated the California Environmental Quality Act. San Francisco Historic Resources v. San Francisco Redevelopment Agency, Case No. CPF-07-507948 ("Petition"). Petitioners also sued the City and its Planning Department for their role in the approval of the Statement of Eligibility for the Rincon Annex. The Petition named the owner of the Rincon Annex (Rincon Center Commercial LLC) as a "real party in interest."
7. The Agency has not concurred in the Statement of Eligibility for TDR for the Rincon Annex pending the resolution of the Petition.
8. Staff has negotiated a Settlement Agreement and Release of Claims to resolve all of the issues in the Petition and recommends that the Agency Commission approve it. The Settlement Agreement requires modest changes in the procedures by which the Agency will consider the use of any proceeds that it may receive from the sale of the Rincon Annex TDR certificates. It does not require any changes in Agency policies and does not impose any financial liability on the Agency. The City and Real Party in Interest also support the Settlement Agreement.
9. The changes under the Settlement Agreement include the provision for advance notice, which would be a change in the Agency's notification procedures that would not have a significant effect on the physical environment, and the use of

Planning Code standards and consultation with the Landmarks Preservation Advisory Board, which will facilitate the future restoration or rehabilitation of a historical resource and the preservation of its historically significant features, and would not cause any significant adverse impacts. The Settlement Agreement could not have a significant effect on the environment and is exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to execute an Settlement Agreement and Release of Claims in the lawsuit entitled San Francisco Historic Resources Advocates, et al. v. San Francisco Redevelopment Agency, et al., (San Francisco Superior Court, Case No. 07-507948, filed Dec. 26, 2007) substantially in the form that is attached to the Resolution.

APPROVED AS TO FORM:



James B. Morales
Agency General Counsel

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS (“Agreement”) dated for reference purposes only as of April ____, 2008 is made by and between the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body corporate and politic established pursuant to the California Community Redevelopment Law (“Agency”), the CITY AND COUNTY OF SAN FRANCISCO (“City”) (collectively the “Respondents”) and SAN FRANCISCO HISTORIC RESOURCES ADVOCATES, an unincorporated association, and G. BLAND PLATT, an individual (collectively the “Petitioners”).

THIS AGREEMENT IS MADE WITH REFERENCE TO THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. On February 10, 1980, the Board of Supervisors of the City and County of San Francisco (“Board”) designated, pursuant to Article 10 of the Planning Code, the Rincon Annex United States Post Office Building (“Rincon Annex”) at Mission and Spear Streets as a landmark building. Landmark No. 107, Appendix A to Article 10 of the Planning Code.

B. On January 5, 1981, the Board approved, per Ordinance No. 14-81, the Rincon Point – South Beach Redevelopment Plan (“Plan”). The Plan establishes, among other things, a land use plan for the Rincon Point – South Beach Project Area (“Project Area”) that is under the exclusive jurisdiction of the Agency. The Rincon Annex is in the Rincon Point subarea of the Project Area. The Plan requires that “[t]he Rincon Annex Building shall be retained and historically restored for adaptive re-use. . . .” Plan at page 8. On several occasions, the Board has amended the Plan, which remains in effect until 2021.

C. On October 18, 1984, the Planning Commission certified a Final Environmental Impact Report for the Downtown Plan. The Downtown Plan includes the policy objective of preserving landmark buildings and an implementing action that, within the Downtown Plan specific area, the “transferable development rights’ (TDR) could be transferred to any parcel or parcel within the same zoning district.” Downtown Plan at page II.1.26. The Downtown Plan FEIR provides environmental review for the Downtown Plan and implementing Planning Code sections; its land use forecasts include the effects of the proposed TDR system. The site of the Rincon Annex is in the area covered by the Downtown Plan. See Figure III.1: Downtown Plan Use Districts at page III.13 of Downtown Plan FEIR. Moreover, the Downtown Plan FEIR lists the Rincon Annex as a landmark in Table E-2, page E-4 of Appendix E: Architectural Resource Evaluation.

D. On August 20, 1985, the Agency Commission approved, per Resolution No. 238-1985, an Owner Participation Agreement with Rincon Center Associates

(“OPA”) for the entire block on which the Rincon Annex is located. At the time, the block was a single parcel. The OPA permitted two tall residential towers and two additional stories on the Rincon Annex. The OPA required, among other things, that the Rincon Annex “will be retained and historically restored for adaptive reuse. An addition of approximately 72,000 gross square feet of commercial space may be developed above the roofline of the existing main structure.” Section III. A. of Attachment D, Scope of Development, of OPA.

E. On September 17, 1985, the Board approved, per Ordinance No. 414-85, the following actions implementing the Downtown Plan: 1) a C-3-O District (Downtown Office) that maps portions of the Rincon Point – South Beach Redevelopment Project Area, including the site of the Rincon Annex; and 2) Section 128 of the Planning Code, which authorizes the transferable development rights for the purpose of preserving historic buildings in C-3 Districts.

F. On May 22, 2001, the Agency adopted, per Resolution No. 82-2001, a policy regarding the Transfer of Development Rights (“TDR Policy”). The TDR Policy applies Section 128 of the Planning Code (“Section 128”) to certain redevelopment project areas that have a C-3 classification in the Zoning District Use Maps of the Planning Code. The TDR Policy thus applies only to certain portions of the Rincon Point-South Beach Redevelopment Project Area and the Yerba Buena Center Redevelopment Project Area. The TDR policy gives the Agency the authority “to approve and concur as to a Statement of Eligibility prepared by the Zoning Administrator if the Agency Commission determines that such authorization will promote the goals of the applicable Redevelopment Plan and enable the preservation, enhancement or maintenance of a Landmark, Significant Building, or Contributory Building,” as defined in Section 128. Section 3 of Attachment A to Resolution No. 82-2001.

G. In adopting the TDR Policy, the Agency determined that its approval was categorically exempt under the California Environmental Quality Act (“CEQA”). The Agency explained the exemption on the basis that the Downtown Plan EIR had already evaluated the Section 128 TDR program that the Agency was implementing. “The Downtown Plan EIR clearly contemplated the transfer of development rights from Significant Buildings . . . throughout the C-3 District in its analysis. The effect of the [Agency’s TDR Policy] with respect to the C-3 would not add any additional development potential to that analyzed in the Downtown Plan EIR.” Page 4 of Attachment B to Resolution No. 82-2001. Accordingly, the Agency found that Section 15305 of the CEQA Guidelines applied because the TDR Policy would be a “minor alteration[] in land use limitations” and would “not result in any changes in land use or density.” Moreover, the Agency found that the exemption in Section 15061 (b)(3) of the CEQA Guidelines applied because the TDR Policy merely confirmed the applicability of Section 128 of the Planning Code to properties within the C-3 District and thus could not possibly “have a significant effect on the environment.”

H. On October 16, 2007, the Agency Commission, per Resolution No. 118-2007, amended the TDR Policy to authorize Agency concurrence in Statements of

Eligibility where the Agency had already ensured the preservation of the historic building that was the subject of the Statement of Eligibility ("TDR Policy Amendment"). Under the TDR Policy Amendment, the Agency Commission may authorize, at a public hearing, the Agency's concurrence in a Statement of Eligibility for a previously-preserved landmark building if it finds that the concurrence will promote the preservation of another historic building "owned by the Agency" or "in or near any project area under the jurisdiction of the Agency." The TDR Policy Amendment does not expand the TDR program because it only authorizes TDRs from buildings that have already received a Zoning Administrator-approved Statement of Eligibility under Section 128. The TDR Policy Amendment may cause the property owner of a previously-preserved, Section 128-eligible building to contribute toward the preservation of another historic building.

I. In adopting the TDR Policy Amendment, the Agency determined that it was categorically exempt under Section 15305 of the CEQA Guidelines. The Agency relied on the previous analysis, as described in Recital G above, that the 2001 TDR Policy was categorically exempt and found that the TDR Policy Amendment constituted a minor alteration in land use limitations.

J. The applicability of the TDR Policy Amendment is extremely narrow. To qualify under the revisions, a building would have to meet the following criteria: 1) it would have to be located in a C-3 District of the Rincon Point – South Beach Redevelopment Project Area or the Yerba Buena Center Redevelopment Project Area; 2) it would have already received a Statement of Eligibility from the Zoning Administrator after having demonstrated compliance with Section 128 of the Planning Code; 3) it would have already been preserved by Agency action; and 4) its owner would have to show how the Agency's concurrence in the Statement of Eligibility serves a broader historic preservation purpose than merely preserving the owner's building.

K. On October 10, 2007, the Zoning Administrator issued a Statement of Eligibility for the Rincon Annex and determined that 489,452 square feet of TDR are available from that site. Case No. 2007.1128J. The Rincon Annex is located in that portion of the Rincon Point-South Beach Redevelopment Project Area that has a C-3 classification.

L. On October 16, 2007, the Agency Commission authorized, per Resolution No. 119-2007, the Executive Director's concurrence in the Statement of Eligibility for the Rincon Annex after finding: 1) the building was in a C-3 District of the Rincon Point – South Beach Redevelopment Project Area; 2) it had received a Statement of Eligibility under Section 128; 3) the Plan and OPA had already ensured the preservation of this landmark building; and 4) the owner proposed to transfer TDR certificates constituting 171,308 square feet of TDR to the Agency for its sale and its commitment of the proceeds to preserve, enhance, and maintain other historic buildings.

M. As described in Recital J above, the TDR Policy Amendment applies only to historic buildings that the Agency itself has preserved in a C-3 district and that otherwise comply with Section 128 of the Planning Code. The Agency understands and

represents that the only building that meets this standard is the Rincon Annex, which the Plan explicitly preserves. Section II. B. 1. a. of Plan. Nothing in this Agreement, however, is intended to limit the applicability of the original 2001 Agency TDR Policy.

N. On November 20, 2007, the Agency filed a Notice of Exemption for the TDR Policy Amendment with the County Clerk's office.

O. On December 26, 2007, Petitioners filed, in the San Francisco Superior Court, a Petition for Writ of Mandamus alleging that the Agency's approval of the TDR Policy Amendment violated CEQA. San Francisco Historic Resources v. San Francisco Redevelopment Agency, Case No. CPF-07-507948 ("Petition").

P. This Agreement is intended to settle the dispute between the Petitioners and the Respondents and resolve fully the claims in the Petition.

Q. Petitioners have made a written request that the Planning Department provide G. Bland Platt, at the address listed in Section 10 below, copies of future applications of Statements of Eligibility under Section 128 that the Zoning Administrator may receive from time to time, which request the Planning Department intends to honor.

ACCORDINGLY, the Petitioners and Respondents agree as follows:

1. Notice to Petitioners of Agency Action Regarding TDR Proceeds. As described in Recital L above, the Agency may receive proceeds from the sale of Rincon Annex TDR Certificates. The Agency agrees that, at least ten calendar days prior to Agency Commission action authorizing the commitment of any of these proceeds to particular projects, the Agency shall notify, the Petitioners, in writing, of the proposed action and the recommendations of Agency staff.

2. Standard of Review in Authorizing Use of Proceeds. The Agency agrees that, in funding particular projects from the TDR proceeds described above, the Agency shall ensure that the project complies with the standards of review that would otherwise be applicable if the Planning Commission and Planning Department had jurisdiction over approval of the historic building. Specifically, if the Agency has final land use approval of the project, the Agency will apply the standards in either Section 1006.7 or Section 1111.6 of the Planning Code after receiving the recommendations regarding the application of these standards from the Landmarks Preservation Advisory Board ("Landmarks Board"), which shall have thirty (30) days from the date that the Agency has referred a project to it to make recommendations to the Agency. (Sections 1006.7 and Section 1111.6 of the Planning Code are attached as Exhibit A.) If the Landmarks Board fails to submit a recommendation within the time allowed, the Agency may consider the project without reference to any Landmark Board recommendations. Nothing herein shall be construed as requiring the Agency to follow any other standard or procedure that is applicable to Planning Commission or Planning Department. This section shall not apply to projects over which the Planning Commission or Planning Department have final land use approval.

3. Public Notice of Zoning Administrator's Receipt of Applications for Statements of Eligibility. From time to time, the Zoning Administrator receives Applications for Statements of Eligibility for TDR under Section 128. Upon receipt of an application for a Statement of Eligibility under Section 128, the Zoning Administrator shall use its best efforts to cause to be posted, on the website of the Planning Department, a notice of receipt of the application for the Statement of Eligibility. However, nothing herein shall be construed as creating or giving rise to a cause of action against the City for failure to do so in favor of any person or entity.

4. Public Notice of Zoning Administrator's Issuance of Statements of Eligibility. From time to time, the Zoning Administrator issues Statements of Eligibility based on the applications received pursuant to Section 128. The Zoning Administrator shall use its best efforts to, within three business days of the issuance of a Statement of Eligibility for a particular lot, cause to be posted, on the website of the Planning Department, a hyperlink allowing public access to a copy of the Statement of Eligibility. However, nothing herein shall be construed as creating or giving rise to a cause of action against the City for failure to do so in favor of any person or entity.

5. Release. As of the Effective Date, except for the obligations created by, arising from or related to this Agreement, the Petitioners, on behalf of themselves and each of their successors, heirs, assigns, partners, officers, and commissioners, do hereby release and absolutely and forever discharge the Agency, the City, and the Real Parties in Interest and their respective successors, heirs, assigns, agents, employees, representatives, partners, officers, directors, shareholders, members, managers, trustees, beneficiaries, and persons and entities holding beneficial interests, from any and all claims, demands, causes of action, whether or not now known, suspected or claimed, which they ever had, now have, claim to have had, or may have had against each other as of the Effective Date of this Agreement arising out of, relating to and/or in connection with TDR Policy Amendment that is the subject of the Petition.

6. Effective Date. The date by which both the Agency and City have approved this Agreement is the "Effective Date."

7. Dismissal with Prejudice. Within three days after the Effective Date, the Petitioners shall dismiss the Petition in its entirety with prejudice, with each party bearing its own costs and attorneys' fees. The Petitioners shall provide the Agency with documentation from the court evidencing compliance with this provision. The Petitioners shall not assist any other person, organization or entity in bringing any lawsuit based on the claims that are the subject of the Petition and that are being resolved by this Agreement.

8. No Admissions of Liability. This Agreement, including the release contained herein, reflects the settlement of denied and contested claims. Nothing

contained herein is, or shall be construed to be, an admission by any party of liability, of any kind, to any other party.

9. General Provisions. (a) This Agreement may be amended or modified only by a writing signed by the Agency, City, and Petitioners. (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) This instrument contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. (d) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. (e) California law shall govern this Agreement. (f) If either party commences an action against the other or a dispute arises under this Agreement, the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of the Agency and the City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience. (g) This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns. (h) The obligations of Petitioners shall be joint and several. (i) This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have or acquire any right or action based upon any provisions of this Agreement.

10. Notices. The notices to Petitioners required under Sections 1 and 2 of this Agreement shall be sufficiently given or delivered if dispatched by hand, by a nationally recognized courier, or by mail, postage prepaid, addressed as follows:

Susan Brandt-Hawley, Esq.

P.O Box 1659

Glen Ellen, CA 95442

G. Bland Platt

362 Ewing Terrace

San Francisco, CA 94118

Petitioners represent and warrant to the Agency and the City that they have had the advice of counsel of their own choosing in the negotiations for, and the preparation of, this Agreement and Petitioners have read and understand the contents of this Agreement and its legal effect.

SAN FRANCISCO HISTORIC RESOURCES:

By _____

G. BLAND PLATT:

AGENCY:

By _____
Fred Blackwell
Executive Director

APPROVED AS TO FORM:

James B. Morales
General Counsel

CITY:

By _____
John Rahaim
Director of the Planning Department

APPROVED AS TO FORM:

Deputy City Attorney

EXHIBIT A
(Planning Code provisions that are referenced in Settlement Agreement)

SEC. 1006.7. STANDARDS FOR REVIEW OF APPLICATIONS.

The Planning Commission, the Department, and the Advisory Board shall be guided by the standards in this Section in their review of applications for Certificates of Appropriateness for proposed work on a landmark site or in a historic district. In appraising the effects and relationships mentioned herein, the Planning Commission, the Department and the Advisory Board shall in all cases consider the factors of architectural style, design, arrangement, texture, materials, color, and any other pertinent factors.

(a) The proposed work shall be appropriate for and consistent with the effectuation of the purposes of this Article 10.

(b) For applications pertaining to landmark sites, the proposed work shall preserve, enhance or restore, and shall not damage or destroy, the exterior architectural features of the landmark and, where specified in the designating ordinance pursuant to Section 1004(c), its major interior architectural features. The proposed work shall not adversely affect the special character or special historical, architectural or aesthetic interest or value of the landmark and its site, as viewed both in themselves and in their setting, nor of the historic district in applicable cases.

(c) For applications pertaining to property in historic districts, other than on a designated landmark site, any new construction, addition or exterior change shall be compatible with the character of the historic district as described in the designating ordinance; and, in any exterior change, reasonable efforts shall be made to preserve, enhance or restore, and not to damage or destroy, the exterior architectural features of the subject property which are compatible with the character of the historic district. Notwithstanding the foregoing, for any exterior change where the subject property is not already compatible with the character of the historic district, reasonable efforts shall be made to produce compatibility, and in no event shall there be a greater deviation from compatibility. Where the required compatibility exists, the application for a Certificate of Appropriateness shall be approved.

(d) For applications pertaining to all property in historic districts, the proposed work shall also conform to such further standards as may be embodied in the ordinance designating the historic district.

(e) For applications pertaining to the addition of murals on a landmark or contributory structure in a historic district, the Advisory Board and the Planning Commission shall consider only the placement, size and location of the mural, to determine whether the mural covers or obscures significant architectural features of the landmark or contributory structure. For purposes of review under this Article 10, the City shall not consider the content or artistic merit of the mural. (Amended by Ord. 41-73, App. 2/1/73; Ord. 249-96, App. 6/19/96; Ord. 82-07, File No. 070021, App. 4/20/2007)

SEC. 1111.6. STANDARDS AND REQUIREMENTS FOR REVIEW OF APPLICATIONS FOR ALTERATIONS.

The Board of Permit Appeals, the City Planning Commission, the Director of Planning, and the Landmarks Board shall be governed by the following standards in the review of applications for major alteration permits.

(a) The proposed alteration shall be consistent with and appropriate for the effectuation of the purposes of this Article 11.

(b) For Significant Buildings - Categories I and II, and for Contributory Buildings - Categories III and IV, proposed alterations of structural elements and exterior features shall be consistent with the architectural character of the building, and shall comply with the following specific requirements:

(1) The distinguishing original qualities or character of the building may not be damaged or destroyed. Any distinctive architectural feature which affects the overall appearance of the building shall not be removed or altered unless it is the only feasible means to protect the public safety.

(2) The integrity of distinctive stylistic features or examples of skilled craftsmanship that characterize a building shall be preserved.

(3) Distinctive architectural features which are to be retained pursuant to Paragraph (1) but which are deteriorated shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material shall match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence, if available, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures. Replacement of nonvisible structural elements need not match or duplicate the material being replaced.

(4) Contemporary design of alterations is permitted, provided that such alterations do not destroy significant exterior architectural material and that such design is compatible with the size, scale, color, material and character of the building and its surroundings.

(5) The degree to which distinctive features need be retained may be less when the alteration is to exterior elements not constituting a part of a principal facade or when it is an alteration of the ground-floor frontage in order to adapt the space for ground-floor uses.

(6) In the case of Significant Buildings - Category I, any additions to height of the building (including addition of mechanical equipment) shall be limited to one story above the height of the existing roof, shall be compatible with the scale and character of the building, and shall in no event cover more than 75 percent of the roof area.

(7) In the case of Significant Buildings - Category II, a new structure or addition, including one of greater height than the existing building, may be permitted on that portion of the lot not restricted in Appendix B even if such structure or addition will be visible when viewing the principal facades at ground level, provided that the structure or addition does not affect the appearance of the retained portion as a separate structure when so viewing the principal facades and is compatible in form and design with the retained portion. Alteration of the retained portion of the building is permitted as provided in Paragraphs (1) through (6) of this Subsection (b).

(c) Within Conservation Districts, all major exterior alterations, of Category V Buildings, shall be compatible in scale and design with the District as set forth in Sections 6 and 7 of the Appendix which describes the District.
(Added Ord. 414-85, App. 9/17/85)