



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

January 26, 2016

Steven Vettel
235 Montgomery Street
San Francisco, CA 94104

Site Address: 830 Eddy Street/825 Van Ness Avenue
Assessor's Block/Lot: 0738/018 and 022-044
Zoning District: RC-4 (Residential-Commercial, High Density)
Van Ness Special Use District
Staff Contact: Brittany Bendix, (415) 575-9114 or brittany.bendix@sfgov.org
Record No.: 2015-013895ZAD

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Dear Mr. Vettel,

This letter is in response to your request for a Letter of Determination regarding the properties at 830 Eddy Street and 825 Van Ness Avenue. Both properties are located in the RC-4 (Residential-Commercial, High Density) Zoning District, Automotive Special Use District, Van Ness Special Use District and were formerly located within the Western Addition A-2 Redevelopment Area. The request is (1) whether the subject properties may be treated as a single development lot for the purpose of new development on Lot 018; and (2) specification of the maximum accessory off-street parking allowed for the existing office building on Lots 022-044.

SINGLE DEVELOPMENT LOT

The subject site is developed with a six-story commercial office building with ground floor retail at 825 Van Ness Avenue and an adjacent two-story accessory parking garage containing 62 off-street parking spaces on the property at 830 Eddy Street. Based upon the Agreement for Disposition of Land for Private Development¹, it appears the two sites were developed together in the 1980s as a single development lot under the Western Addition A-2 Redevelopment Plan with the intent of subsequently pursuing a condo subdivision of the commercial units. Today, although the properties are under different ownerships, the activities of the two lots are still interrelated with the accessory off-street parking for 825 Van Ness Avenue existing in the adjacent building at 830 Eddy Street.

OFF-STREET PARKING REQUIREMENT FOR OFFICE USE

On July 15, 2015, the Planning Department received a Preliminary Project Assessment (PPA) application, Case No. 2015-009460PPA, for a proposal to demolish the existing two-story accessory parking garage

¹ The Planning Department received/reviewed the Third and Fourth Amendments to the Agreement for Disposition of Land (dated November 24, 1981 and May 24, 1983) during review of the Preliminary Project Assessment application.

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and construct a 120-unit residential building. The proposal includes 100 accessory off-street parking spaces, 40 of which would be accessory to the existing office uses at 825 Van Ness Avenue. However, the existing office space is a non-conforming use per the Planning Code, as office is not permitted in the RC-4 Zoning District. Therefore, the accessory parking dedicated to the office use is also non-conforming. And demolition of the parking structure would constitute an abandonment of the existing non-conforming accessory parking.


Therefore, any off-street parking included in the new construction proposal, that is also accessory to the office space in 825 Van Ness Avenue, must comply with the current requirements of Planning Code Section 151.1. The RC-4 Zoning Districts are subject to off-street parking maximums; however, because office uses are not permitted within the district, there is no specific limit defined. Per Planning Code Section 153(b) when a use is not specifically identified in the land use tables for parking requirements, the closest land use category will apply. The PPA Letter issued on October 13, 2015, communicated that the maximum area and amount of accessory off-street parking for the office uses is equal to seven percent of the gross floor area of the office use. The request for a Letter Determination requests that this maximum requirement be re-considered in light of alternative options.

DETERMINATION

Given the joint development history of 825 Van Ness Avenue and 830 Eddy Street, as well as the current and proposed interrelation of uses, the project at 830 Eddy Street is considered to occupy a single development lot containing Lots 018 and 022-044 of Assessor's Block 0738. Additionally, upon further consideration, the maximum amount of accessory off-street parking for the non-conforming office use is one off-street parking space per 1,000 gross square feet of office space. This change from the maximum stated in the PPA Letter takes into account the site's proximity to the Van Ness Avenue transit corridor, the RC-4 Zoning District's restriction of office uses (as is similar to that of the M-1, UMU, SALI, PDR-1-D and PDR-1-G Zoning Districts), and the previous parking requirement of providing a *minimum* of one off-street parking space per 500 square feet of office space in the RC-4 Zoning Districts.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez
Zoning Administrator

cc: Property Owner
Neighborhood Groups
Brittany Bendix, Planner

October 14, 2015

R# 2015-013895 ZAD
CK # 5913 \$645.-
D. LINDSAY (NW)

Scott Sanchez, Zoning Administrator
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: ⁸¹⁵ 830 Eddy Street/~~825~~ Van Ness Avenue (Case No. 2015-009460PPA)
Assessor's Block 0738, Lots 18 and 22-44

Dear Mr. Sanchez:

I am writing on behalf of SIC/Build – 830 Eddy Investment, LLC (“Build Inc.”) to request a Letter of Determination concerning the development site at 830 Eddy Street and 825 Van Ness Avenue. We request that you determine that these two adjoining lots that are not currently under common ownership be deemed a single development lot.

Factual Background. The two lots were under common ownership in the 1980s, were located in the Western Addition A-2 Redevelopment Plan Area, and at one point were a single lot before they were subdivided. Pursuant to a Disposition and Development Agreement with the Redevelopment Agency, 825 Van Ness was developed as a 34,600 square foot 6-story office and retail building and 830 Eddy was developed as a 2-story 62-space parking garage accessory to the office and retail uses. The parking garage provided required parking for the office and retail building under the parking requirements of the Redevelopment Plan. A drive-through for the Burger King restaurant in 825 Van Ness is also provided on the 830 Eddy lot. The combined lots have an existing built FAR of only about 2.7:1.

The 825 Van Ness building was subdivided into commercial condominiums and sold to various individual owners who occupy the office and retail building for a variety of office uses and a Burger King drive-through restaurant. The parking garage was retained by the original developer, the parking spaces located on 830 Eddy were leased to the 825 Van Ness commercial condominium owners and Burger King, and an easement was granted that provides a one-way drive aisle from Eddy Street through the 830 Eddy garage to the Burger King drive-through pick-up booth, with an exit on Van Ness Avenue. Accordingly, although the two lots are no longer under common ownership, the 830 Eddy garage is burdened by easement and parking lease obligations to 825 Van Ness.

The Redevelopment Plan has expired and both properties are within the RC-4 zoning district and the Van Ness Special Use District. The office uses in the 825 Van Ness building

does not conform to either the RC-4 zoning or the Van Ness SUD, such that the commercial office building and its accessory parking garage are now legal nonconforming uses.

Build Inc. has acquired 830 Eddy from the original developer and submitted a PPA application to redevelop the garage into a 120-unit mid-rise multi-family residential project consistent with the RC-4 zoning, Van Ness SUD and 130-V height and bulk district, with underground parking for the new dwelling units at a 0.5:1 ratio and 40 replacement accessory parking spaces for the legally non-conforming office and retail building (22 spaces less than currently provided). The owners of the office and retail condominiums believe they are entitled to be provided with replacement parking in the new building but have agreed to reduce their accessory parking requirement from 62 to 40 spaces. Accessory parking for the legal nonconforming office and retail uses is permitted in the RC-4 district pursuant to Planning Code Section 204.3.

The Van Ness SUD provides an FAR limit of 7.0:1 and the FAR limit applies to housing and non-accessory parking, even though the height limit is 130 feet. Providing parking at 830 Eddy for the 825 Van Ness uses would consume a considerable amount of the limited FAR that is available unless that parking continues to be deemed accessory parking to the legal ground floor retail and legal non-conforming office uses located in the 825 Van Ness building. 825 Van Ness also has a considerable amount of unused FAR.

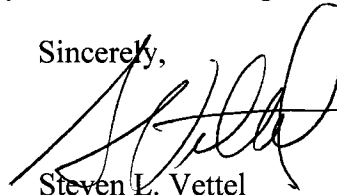
Single Development Lot. The definition of a “lot” in Section 102 of the Planning Code states: “A parcel of land under one ownership which constitutes, or is to constitute, a complete and separate functional unit of development, and which does not extend beyond the property lines along streets or alleys. A lot as so defined generally consists of a single Assessor's lot, but in some cases consists of a combination of contiguous Assessor's lots or portions thereof where such combination is necessary to meet the requirements of this Code. In order to clarify the status of specific property as a lot under this Code, the Zoning Administrator may, consistent with the provisions of this Code, require such changes in the Assessor's records, placing of restrictions on the land records, and other actions as may be necessary to assure compliance with this Code.” An October 1989 Zoning Administrator Interpretation supports your ability to treat adjacent lots as a single lot if necessary to “implement the intent” of the Code: “This Section states that two or more Assessor's lots may be considered to be one lot if necessary to implement the intent of the Code. A landlocked lot zoned RH-1 was under the same ownership as an adjacent RH-2 lot fronting on a street which supplied an easement to the landlocked lot. A single-family dwelling could be built on the landlocked lot as long as a variance were granted for the rear yard and a Notice of Special Restriction were placed on both lots requiring their being considered one lot for Planning Code purposes.”

Given the above factual background and the definition in Section 102 of a lot, we request that you determine that the two lots be deemed a single development lot. Although the two lots are not currently under common ownership, they were in the past when 825 Van Ness and 830 Eddy were developed together as a single project. An easement, Notice of Special Restrictions or other restrictive covenant would be recorded to restrict development on the 825 Van Ness lot to the remaining allowable FAR (if any) after development of 830 Eddy and requiring the

replacement parking in the 830 Eddy garage to be used only as accessory parking for the legal nonconforming office and retail building.

Treating the two lots as a single development lot would also allow the unused FAR from 825 Van Ness to be used at 830 Eddy to permit the new residential building to take advantage of the 130-foot height limit and, consistent with the Mayor's stated priorities, provide considerably more dwelling units (and affordable BMR units) than would be allowed without the single development lot determination. We request that you also confirm that the accessory underground parking for both the residential units (at a 0.5:1 ratio) and the 40 replacement commercial spaces to be provided at 830 Eddy would not count against the FAR limit.

Sincerely,



Steven L. Vettel

cc: Brittany Bendix
Courtney Pash, Build Inc.
Michael Yarne, Build Inc.