



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

November 7, 2008

Steven Vettel
Farella Braun & Martel
235 Montgomery Street
San Francisco CA 94104

**RE: 800 Brotherhood Way
Assessor's Block 7331/Lot 003
Assessor's Block 7332/Lot 002**

Dear Mr. Vettel:

This letter is in response to your request for a letter of determination regarding a condition of approval of the Conditional Use authorization for the proposed residential development at 800 Brotherhood Way approved by the Planning Commission (Commission) on May 19, 2005 (Motion No. 17022). The subject property is within RM-1 (Residential Mixed, Low Density) and RM-4 (Residential Mixed, High Density) Districts and within the 40-X and 130-D Height and Bulk Districts. The subject condition states;

"The project sponsor shall provide and maintain publicly accessible pedestrian paths from Brotherhood Way through the site to MUNI routes on Gonzalez Drive and Font Boulevard, as indicated in the Pedestrian Access and Public Transportation drawing included in Exhibit B."

The reason for the imposition of the condition was to improve transit access for the residential development and to provide social connections between residents of the project and surrounding residential development.

Since the authorization of the project by the Planning Commission, the property owner, Olympic View Realty, sold the surrounding property to another entity. It appears that Olympic View Realty failed to adequately secure the necessary easements to provide for the pedestrian connection when it sold the surrounding property and is not able to correct their error with the new owners. Faithful to its original intention and once it discovered this drafting error, Olympic View Realty pursued the correction of that easement with the Parkmerced buyers in order to ensure public access from its project site to MUNI services on Gonzalez Drive and Chumasero Drive/Font Boulevard. But despite its diligent efforts over the last several months, it has been unable to secure such a correction (or a new easement) from the current owners of Parkmerced, who have indicated that they will not voluntarily consent to an amendment of the erroneously drafted easement or provide a new pedestrian access easement. Nevertheless, Olympic View Realty included the public access easements from Brotherhood Way through its site to the northern boundary of the site in its approved tentative subdivision map subdividing the 800 Brotherhood Way

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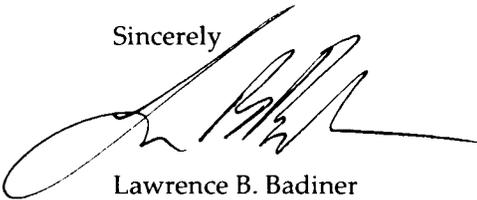
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property into 121 lots (see sheet 4 of 10, Amended Vesting Tentative Map (September 17,2008). The Planning Department approved that map on August 22, 2008. In light of this error the Planning Department considers the following steps to be necessary to comply with the Planning Commission's condition of approval.

- Easements for the required pedestrian connection shall be provided and recorded on the subject property in locations approved by the Planning Department. Such easements shall be to the benefit of the public, residents of the project, and residents of the Park Merced properties.
- The pedestrian pathway shall be constructed to within 10 feet of the relevant property line. The 10 foot gap would permit some flexibility in alignment with any future pathway constructed on the neighboring property.
- A bond shall be posted with the Department of Public Works (DPW) to provide for the future construction of the last 10 feet of the pedestrian pathway when such construction is deemed appropriate by DPW.

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 Permit Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Permit Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely



Lawrence B. Badiner
Zoning Administrator

cc: Rick Crawford, Planner

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