



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

March 5, 2010

Ella Budovskaya
536 – 40th Avenue
San Francisco, CA 94121

Sarah Huang
538 – 40th Avenue
San Francisco, CA 94121

**RE: Proposed construction at 536 and 538 – 40th Avenue
Block: 1505 Lots: 027 and 026**

Dear Ms. Budovskaya and Ms. Huang,

This purpose of this letter is to provide some clarity about the process going forward on the proposed developments at 538- 40th Avenue and 536 – 40th Avenue. The two properties are located next to each other in an RH-2 Zoning District and a 40-X height and bulk district. 538 – 40th Avenue contains a one-unit, one-story-over-garage structure located at the front of the lot and 536 – 40th Avenue contains a one-unit, one-story-over-garage structure at the rear of the lot. Demolition (2006.08.17.9798) and new construction (2006.08.17.9803) permits were issued for 536 – 40th Avenue on August 11, 2009 to demolish the existing building at the rear of the lot and construct a new four-story, two-unit building at the front of the lot; prior to those permits being issued, the property owners at 538 – 40th Avenue submitted a site permit on July 3, 2008 (2008.07.03.5957) to add a vertical and rear horizontal addition to their property.

The required rear yard depth on the site permit for 538 – 40th Avenue was based upon the existing conditions of 536 – 40th Avenue, and not the proposed plans being reviewed by the Planning Department. The Planning Code requires that if a permit has been reviewed and approved by the Planning Department, the approved plans are to be used to determine the required rear yard on adjacent properties; however, until then the existing conditions can be used to determine the required rear yard line on adjacent properties. By the time the permit for 538 – 40th Avenue was sent out for 311 Neighborhood Notification, the Planning Department had approved the demolition and new construction permits for 536 – 40th Avenue. After being made aware of this, the Planning Department pulled the permit for 538 – 40th Avenue back from notification and required that the proposed plans be revised based on the approved plans for 536 – 40th Avenue. Rather than making those changes, which would result in a shorter building, the project sponsors for 538 – 40th Avenue decided to wait on processing their permit to see if the proposed demolition and new construction at 536 – 40th Avenue would move forward.

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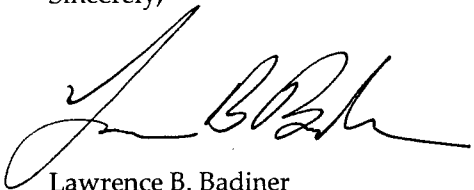
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As of February 7, 2010, the demolition permit for 536 – 40th Avenue has expired. The Department of Building Inspection allows expired permits to be extended; however, as of the date of this letter the permit has not been extended. While the Planning Department recognizes that the current economic climate is difficult, and that the slow economy may have led to the delay in proceeding with the project at 536 – 40th Avenue, it also recognizes that it is unfair to require the property owners of 538 – 40th Avenue to alter their plans to have a reduced building depth based on a project that may never move forward. Therefore, it is my determination that because the demolition permit passed its expiration date and has not been renewed, the property owners at 538 – 40th Avenue may move forward with their plans for a vertical and horizontal addition based on the existing site conditions at 536 – 40th Avenue.

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,



Lawrence B. Badiner
Zoning Administrator

cc: Aaron Starr, Planner

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