



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER
(415) 558-6378

DIRECTOR'S OFFICE
PHONE: 558-6411
4TH FLOOR
FAX: 558-6426

ZONING ADMINISTRATOR
PHONE: 558-6350
5TH FLOOR
FAX: 558-6409

PLANNING INFORMATION
PHONE: 558-6377
MAJOR ENVIRONMENTAL
FAX: 558-5991

COMMISSION CALENDAR
INFO: 558-6422
INTERNET WEB SITE
WWW.SFGOV.ORG/PLANNING

April 13, 2005

Dr. Jamie L. Summers DC
Dr. Steven Hubert PhD
P.O. Box 823
1502 Old Rancheria Road
Nicasio, CA 94946

**RE: Letter of Determination
21 Buena Vista East Avenue
Block 1241; Lot 009A**

Dear Drs. Summers and Hubert,

I have reviewed your letter of March 10, 2005 requesting a determination concerning the allowable legal uses of the subject property. After reviewing the relevant sections of the Planning Code and additional materials, I have made the following determination:

The subject property has a legal authorized use of 14 residential guest rooms and 1 dwelling unit. The property lies within an RH-3 (Residential, Three-Family, House) District. Residential guest rooms are considered "group housing" as defined in Section 209.2 of the Planning Code, and group housing is allowed only as a Conditional Use in this District. Furthermore, group housing is allowed as a Conditional Use only up to a density of 8 units (bedrooms) based on the total area of this lot. Guest room units (bedrooms) in excess of this density (the remaining 6 units) are considered nonconforming with respect to the density limits of Sections 208 and 209 of the Code.

The existing group housing use of the property is therefore considered a pre-existing (permitted) conditional use (8 units) and nonconforming use (6 units) as defined in Sections 178 and 181 of the Code, since it was established prior to the establishment of use requirements for said use. Section 178(d) of the Code further states that "a permitted conditional use which is discontinued for a period of three years or otherwise abandoned, shall not be restored..." Section 181 has similar language for nonconforming uses. This use shall be considered abandoned three years from the last legal date of residency of the last resident of said guest rooms.

At this point, the existing use (group housing, 14 units, and one dwelling unit having its own kitchen) can be carried forward without any additional required entitlements or neighborhood notification. As you are aware, the current owner of the property has pursued several building permits to renovate, and perhaps, to physically convert the existing building to a single-family dwelling. Some minor modification of interior rooms or partitions may be required to restore the group housing use, but these interior alterations could be approved without any additional neighborhood notification.

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The question is therefore whether the use you have described in your letter would be considered within the definition of 'group housing.' Group housing is defined as "providing lodging or both meals and lodging, without individual cooking facilities, by prearrangement for a week or more at a time...in a space not defined by this Code as a dwelling unit. Such group housing shall include but not necessarily be limited to a boardinghouse, guesthouse, rooming house, lodging house, residence club, commune, fraternity and sorority house..." The definition goes on to specifically exclude "group housing for religious orders or group housing for medical and educational institutions. 24 adults living in a generally unsupervised manner but with a common agreement (in this case, to avoid drugs or alcohol) appears to be very similar to a fraternity or commune and would therefore be considered group housing. As the units would be available directly for rent by the occupants, you may have obligations under the Ellis Act as this building was recently taken off of the rental market by the prior owner.

A recovery facility that provides "specialized aid by personnel licensed by the State of California," such as a "home for the treatment of addictive...disorders" is considered a separate and distinct use from the current legal use of the property. Institutional uses of this kind for more than six people, as described in Section 209.3(c) of the Code, are permitted as a Conditional Use in the RH-3 District. A change to this use would require neighborhood notification and a public hearing before the Planning Commission. "Specialized aid" would include full-time or part-time residency of a medical professional available to residents, or the performance of a regular regimen of medical services or care at the subject property by visiting licensed medical or therapy personnel.

The Code also allows the change of use from the current use to any principally permitted use, such as a one, two, or three-family dwelling. While permitted, any change of use in this manner will require the filing and approval of a Building Permit Application describing the desired change in use. Section 311 of the Planning Code requires that all changes of use in an R district receive standard neighborhood notification.

Should you have any questions about the contents of this letter, please contact **Geoffrey Nelson** at **(415) 558-6257**.

If anyone has substantial reason to believe that this determination represents an error in interpretation of the Planning Code, or abuse of 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 1660 Mission Street, Room 3036, San Francisco, or call (415) 575-6880.

Sincerely,

Lawrence B. Badiner
Zoning Administrator