



PLANNING DEPARTMENT

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January 11, 2005

Mr. Charles Marsteller
835 Turk Street, # 608
San Francisco, CA 94102

Ms. Nancy Gin
923 Eddy Street, #107
San Francisco, CA 94109

**Re: Letter of Determination
724 - 730 Van Ness Avenue/640-660 Turk Street
Block/Lots: 742/4 and 8
Zoning: RC-4 (Residential-Commercial Combined District, High Density) and the
Van Ness Special Use District with a 130-V Height and Bulk District**

Dear Mr. Marsteller and Ms. Gin:

This letter is in response to your letter dated October 29, 2004 requesting a determination by the Zoning Administrator with regard to the broader procedural issues related to an approved mixed-use development project and proposed modifications to that approved project by the new property owner at the above-referenced properties.

With regard to the questions (shown verbatim) you raised in your letter, responses (shown in *italics*) are provided below:

- 1) In your view, does the Zoning Administrator have the power to substitute racked parking in a new and/or existing project for conventional parking spaces required per Section 151 & 155(c) of the S. F. Planning Code? Or does this require a text amendment of the Planning Code?

Racked parking (including automated spaces or car elevators) may be substituted for conventional parking spaces provided that every required off-street parking space is independently accessible as required in Planning Code Section 155(c)(1). The Planning Code was specifically amended recently to allow for racked parking although Zoning Administrator interpretations previously allowed this.

- 2) When there is a housing development which is presented to the public and the Commission as meeting rental housing needs and has received exceptions based on this representation, should there be a condition of approval putting a time limit on when a standardized condo map could convert the units to condos? Can the conversion occur as soon as prior to the issuance of the building permit?

If the Commission wishes to place a condition limiting a project to either rental or sale housing, they may do so. It was the Commission's practice to do so in the early and mid

1990's. Subsequently, we had a number of projects returned to the Commission, usually to change from rental to sale housing. As most of these were approved without controversy, the Commission stopped imposing limits on sale or rental housing. However, Motion No. 16443 specifically identifies the inclusionary units as rental, perhaps inadvertently; "The Project Sponsor shall designate a total of 19 units as affordable [Below Market Rate (BMR)] rental units to be constructed on the Project Site pursuant to provisions for Section 315 of the Planning Code."

- 3) Does an increase or decrease of up to 10% (up or down) from the number of approved units meet the general consistency standard or would this require an amendment to the C.U.P?

In this case, an amendment to the conditional use authorization is not required for a decrease from 141 to 130 dwelling units. It is particularly difficult to respond in general to this question, since the determination must be made with regard to the particular approval and the concerns of the Commission as expressed at the hearing.

- 4) Is there a generalized consistency standard or Code language that supports waiver of parking for inclusionary affordable units? Is there a compatibility standard that counters this?

With regard to meeting the off-street parking space requirement, the Planning Code does not differentiate between inclusionary affordable units or market rate units. The parking space requirement is calculated based on the number of units provided, not whether it's designated as an inclusionary affordable unit or market rate unit.

If anyone believes 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.

If you have any questions regarding this matter, please contact Mary Woods at (415) 558-6315.

Sincerely,

Lawrence B. Badiner
Zoning Administrator

cc: Ms. Sue Hestor
Mr. John Sanger