



PLANNING DEPARTMENT

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February 1, 2005

Robert Wolf
1650A Solano Avenue
Albany, CA 94706

RE: 267 Roosevelt Way, Assessor's Block and Lot, 2614/046

Dear Mr. Wolf:

I am writing in response to your letter of November 12, 2004. In that letter, you requested a determination that the dwelling on the property at 267 Roosevelt Way has a pre-existing noncomplying rear yard. The subject property is located within an RH-2, Residential House, Two Family, zone district and a 40-X height and bulk district and is occupied by a single family dwelling.

Review of the assessor's records and floor plans you submitted do not support the determination you have requested. The copy of the Assessor's card you submitted indicates the building to be approximately 25 feet wide and 45 feet in length. The reduced copy of floor plans you submitted indicates the building to be approximately 62 feet in length, excluding the rear bay window. The 2003 building permit application, of which you submitted a copy, was for interior remodeling and did not address the size of the building, dates of construction of the building's various parts, nor placement of the building on the lot. While the photographs you submitted indicate historic materials and construction methods, no records suggest the construction was legally permitted.

Planning Code Section 180 defines a "noncomplying structure" as a structure, which existed lawfully at the effective date of the Code. The subject structure does not appear to meet that definition. Your submittal indicates that the construction continued for a number of years by family members, and given that there is no record of permits, we cannot conclude that the construction was completed with benefit of permits. If the in fill of the space beneath the rear portion of the building would encroach into the required rear yard it would be necessary for you to seek and justify a variance from the rear yard requirement of the Planning Code.

If anyone has substantial reason to believe that there was an error in interpretation of the provisions of the Planning Code, or abuse of discretion on the part of the Zoning Administrator, they may file an appeal with the Board of Appeals (1660 Mission Street, Room 3036 telephone: 575-6880) within fifteen (15) days of the date of this letter.

Robert Wolf
Letter of Determination – 267 Roosevelt Way
February 1, 2005
Page 2.

I hope this letter adequately addresses the questions in your letter. If you have any questions regarding this determination, please feel free to contact Rick Crawford of my staff, (415) 558-6358.

Sincerely,

Lawrence B. Badiner,
Zoning Administrator

cc: Rick Crawford, Planner