



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

September 17, 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 the affordable housing requirement for the residential development proposed on the property at 800 Brotherhood Way and 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 Commission approved the project based in part upon the record of the hearing, and the submissions by the applicant. In the application for the project and in subsequent correspondence with the Planning Department (the Department) the applicant made no firm commitment to locate the affordable units required for the project on the project site. The motion approving the project mentions the affordable housing component but the language of the motion's findings does not commit the applicant to any particular option.

In April of 2007 the Board of Supervisors amended Planning Code Section 315 to modify the requirements for inclusionary affordable housing. That amending ordinance states that the amendments to Section 315 "apply only to projects that receive their Planning Commission or Department approval on or after the effective date" of the legislation, that date being June 3, 2007. As the development of the subject property was approved by the Planning Commission prior to that date, the requirements of the amended Section do not apply to the project.

The applicant wishes to keep the option open to locate the units either on or off site or to pay an in lieu fee. This flexibility is permissible as the applicant never made a firm commitment to locate the units on site, and the findings in the motion of approval do not commit the applicant to a specific course. The applicant should be aware that, under the terms of the regulation in effect at the time of the approval of the project, the housing requirement for on-site provision of affordable housing is 12% of the total housing units while the requirement for providing the affordable housing either off site or by means of an in lieu fee is 15% of the total housing units in the project.

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

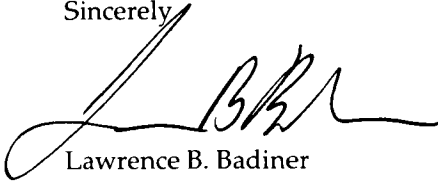
Planning
Information:
415.558.6377

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

September 16, 2008
Letter of Determination
800 Brotherhood Way

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

A handwritten signature in black ink, appearing to read 'LBB', written over a horizontal line.

Lawrence B. Badiner
Zoning Administrator

cc: Rick Crawford, Planner

G:\DOCUMENTS\SW Cases\SW Determ\800 Brotherhood Way inclusionary housing.doc