



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

June 8, 2010

Steven L. Vettel
Farella Braun + Martell LLP
235 Montgomery Street
San Francisco CA 94104

RE: 1150 Ocean Avenue
Block: 3108 Lot: 003
Case No. 2006.0884/Motion No. 17886

Dear Mr. Vettel:

This letter is in response to your request for a letter of determination regarding the property at 1150 Ocean Avenue. This parcel is located in the Ocean Avenue Neighborhood Commercial-Transit District with a 55-X height and bulk limitation. The request is whether an existing local vender dba "Shoppers" would satisfy the requirements of Planning Code Section 151.1(f) and Conditional of Approval No. 21 of Planning Commission Motion No. 17885.

At a public hearing on May 21, 2009, the Planning Commission approved the construction of a mixed-use project containing approximately 173 dwelling units and approximately 29,500 gross square feet of commercial space in the Ocean Avenue NCT District. Approximately 27,500 gsf of the commercial space in the project's east block has been designated for a grocery tenant, and the motion approved use of that space for a formula retail grocer.

Planning Code Section 151.1(f)(3)(B), which is applicable in the Ocean Avenue NCT District provides that:

"Retail uses larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service."

Condition No. 21 of Motion No. 17885 requires compliance with Planning Code Section 151.1(f)(3)(B) and provides that:

"If the Project includes a retail use larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, then the Project shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service, to meet the requirements of Section 151.1(f) of the Code."

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The project sponsor, AvalonBay Communities, and the prospective grocery tenant propose to comply with Section 151.1(f)(3)(B) in the following manner:

- The grocery tenant will offer door-to-door grocery delivery service through either its own program or through an independent vendor. The grocery tenant that AvalonBay Communities is in negotiations with to lease the grocery store space contemplates the use of an existing local vendor dba "Shophoppers." Shophoppers offers same day door-to-door grocery delivery service within San Francisco six days a week at a modest delivery charge.
- The grocery tenant will post contact information for Shophoppers (or any other delivery service) within the store.
- The grocery tenant will also post telephone contact information for several San Francisco-based taxi cab and car service companies such that grocery delivery would be available on an as needed basis.

The subject property was recently rezoned from NC-2 to Ocean Avenue Neighborhood Commercial-Transit as part of the Better Neighborhoods Balboa Park Station Area Plan. The Plan's objectives and policies are informed by three key principles: 1) improve the area's public realm; 2) make the transit experience safer and more enjoyable; and 3) improve the economic vitality of the Ocean Avenue Neighborhood Commercial District. Plan Objective 2.4 seeks to "encourage walking, biking, public transit as the primary means of transportation." Plan Policy 3.1.2 discusses parking for commercial uses as follows: "provide flexibility for non-residential development by eliminating minimum off-street parking requirements and establishing parking caps generally equal to the previous minimum requirements."

Current pricing for Shophopper's delivery and shopping service are as follows: \$19.95 for up to \$50.00 worth of groceries; \$22.95 for \$50 to \$100 worth of groceries; \$26.95 for \$100.01 to \$150.00 worth of groceries; and \$28.95 for \$150.01 to \$200.00 worth of groceries¹.

To date, the Department has not provided clarification on what would count as delivery service provided at "minimal or no charge" to customers. In evaluating what is "minimal charge", I believe it is appropriate to consider residential character and density, the availability of transit infrastructure, and viability of other modes, like car-share. For more "central city" locations, a fairly common sense threshold for a "minimal cost" service should be at the tipping point where one begins to see transportation demand management effects such as a service that (a) costs less than the equivalent cab ride or car-share service and/or (b) is more convenient than privately arranging your own cab ride, car-share, or other service before arriving at the store.

In examining the neighborhood around 1150 Ocean Avenue, there appears to be varying degrees of such urban markers. Ocean Avenue is a multi-purpose transit-oriented small-scale commercial district that is

¹ Shophoppers website. <http://www.shophoppers.com/pages/shop.html>, retrieved June 7, 2010.

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1150 Ocean Avenue

modeled on the NCT-2 District. There is no residential density limit by lot area within the Ocean Avenue NCT District. Ocean Avenue was developed as a streetcar-oriented commercial district in the 1920s and continues to serve this function, with the K-line streetcar on Ocean Avenue. Numerous other bus lines serve the area, especially the eastern end, where the Phelan Loop serves as a major bus terminus. The eastern end of the district is anchored by the main City College campus at Phelan and direct linkages to the Balboa Park BART/MUNI rail station a couple blocks to the east, which serves as the southernmost San Francisco station for BART and the terminus of the J, K, and M streetcar lines.

There is a City CarShare pod at Phelan and Ocean Avenue that contains one car. The nearest ZipCar pods are not located within an easy ¼ mile walk but instead are at Stonestown Mall, San Francisco State University and Glen Park. Car-share services typically cost a minimum of \$10/hour and would need to be rented for two hours to allow time for picking up the vehicle, shopping, transporting the groceries, and returning the vehicle. Therefore, car-share costs would be about \$20 for most grocery trips. Similarly, taking a taxi ride for 1 mile would cost approximately \$6.25 each way. (This charge was calculated using the following taxi rates: Initial Charge \$3.10; rate per mile \$2.25; and rate per minute stopped or in traffic \$0.45.) Even though, it would be less expensive to use a taxi or car-share, it is my determination that Shoppers may be more convenient than these alternatives.

While this area is well-served by transit, it is largely single-family housing; lacks sufficient, convenient car-share options; and maintains relatively low residential density for San Francisco. It is my determination that for this location and under these specific circumstances, Shoppers would qualify as "minimal cost" delivery and therefore satisfies condition of approval number 21 of Motion No. 17885 as well as Planning Code Section 151.1(f)(3)(B).

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,



Scott F. Sanchez
Acting Zoning Administrator

cc: Michael Smith, Planner
AnMarie Rodgers, Manager of Legislative Affairs



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RECEIVED

JUN 01 2010

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT

June 1, 2010

ID # 2981 - SW M. SMITH

CK # 561052 \$549.50

Kelley Amdur
Acting Zoning Administrator
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco CA 94103

Re: 1150 Ocean Avenue
Grocery Store Delivery Service

Dear Ms. Amdur:

I am writing on behalf of AvalonBay Communities, Inc., the project sponsor of the 1150 Ocean Avenue project, to request your determination that providing the below-described grocery delivery service complies with Planning Code Section 151.1(f) and Condition of Approval No. 21 of Planning Commission Motion No. 17885. That motion approved the construction of a mixed-use project containing approximately 173 dwelling units and approximately 29,500 gross square feet of commercial space in the Ocean Avenue NCT District. Approximately 27,500 gsf of the commercial space in the project's east block has been designed for a grocery tenant, and the motion approved use of that space for a formula retail grocer.

Planning Code Section 151.1(f)(3)(B), which is applicable in the Ocean Avenue NCT District, provides:

Retail uses larger than 20,000 square feet, including but not limited to grocery, hardware, furniture, consumer electronics, greenhouse or nursery, and appliance stores, which sell merchandise that is bulky or difficult to carry by hand or by public transit, shall offer, at minimal or no charge to its customers, door-to-door delivery service and/or shuttle service.

Condition No. 21 of Motion No. 17886 requires compliance with Section 151.1(f)(3)(B).

AvalonBay Communities and its prospective grocery tenant propose to comply with Section 151.1(f)(3)(B) in the following manner:

- The grocery tenant will offer door-to-door grocery delivery service through either its own program or through an independent vendor. The grocery tenant that AvalonBay



Kelley Amdur

June 1, 2010

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Communities is in negotiations with to lease the grocery store space contemplates the use of an existing local vendor called "Shophoppers." Shophoppers offers same day door-to-door grocery delivery service within San Francisco six days a week at a modest delivery charge.

- The grocery tenant will post contact information for Shophoppers (or any other delivery service) within the store.
- The grocery tenant will also post telephone contact information for several San Francisco-based taxi cab and car service companies, such that grocery delivery would be available on an as needed basis.

We seek your determination that providing consumers access to Shophoppers or a similar delivery service by our prospective grocery tenant and the posting of grocery delivery information options complies with Section 151.1(f)(3)(B).

Thank you for your consideration of this request for a Letter of Determination. Enclosed is the Zoning Administrator LOD fee in the amount of \$549.50.

Sincerely,

Steven L. Vettel

cc: Michael Smith
Meg Spriggs

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