



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Letter of Determination

January 9, 2017

Matthew Demar, CCAM  
Marlow Owners Association  
P.O. Box 77045  
San Francisco CA 94107

<b>Site Address:</b>	1800 Van Ness Avenue & 1754 Clay Street
<b>Assessor's Block/Lot:</b>	0619/051 - 148
<b>Zoning District:</b>	RC-4 (Residential-Commercial, High Density) Van Ness Special Use District
<b>Staff Contact:</b>	Sara Vellve, (415) 558-6263 or <a href="mailto:sara.vellve@sfgov.org">sara.vellve@sfgov.org</a>
<b>Record No.:</b>	2016-014937ZAD

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Mr. Demar:

This letter is in response to your request for a Letter of Determination regarding the property at 1800 Van Ness Avenue & 1754 Clay Street (a mixed-use development called the "Marlow"). This parcel is in the RC-4 (Residential-Commercial, High Density) Zoning District, Van Ness Special Use District, and 80-D Height and Bulk District. The request is to convert three car share parking spaces constructed to comply with the project's entitlements to "guest parking" for visitors. Based on information provided for our review, the car share contract with ZipCar was terminated because of vandalism to the cars of Marlow residents that is attributed to ZipCar users. You have indicated that both Enterprise Car Share (not a certified car-share organization) and City Car Share have declined the opportunity to offer their programs at the property.

On October 20, 2011, the project was granted Conditional Use authorization from the Planning Commission to construct a Planned Unit Development consisting of two buildings: an 8-story, 94-unit mixed-use building with 99 parking spaces and approximately 4,900 square feet of ground-floor commercial space on Van Ness Avenue at Clay Street and a 44-foot tall, four-story, four-unit residential building with four parking spaces on Washington Street (Case No. 2011.0094C – Motion No. 18470). At the time of the project entitlements, Planning Code Section 166 required one car share space which was included in the proposal. Condition No. 11 of Motion No. 18470 indicates that no fewer than three car share spaces shall be made available to a car share service for subscribers.

The car share requirement is a Condition of Approval in Motion No. 18470, and the project was approved with the understanding that car share would be provided; therefore, elimination of these spaces would be contrary to the conditions outlined in the motion. The Planning Code does not authorize the Zoning Administrator to administratively modify the car share requirement; therefore, such authorization cannot occur through a Letter of Determination.

To remove the car share requirement, you would need to receive the following authorizations: 1) approval from the Planning Commission to modify Motion No. 18470 to remove Condition of Approval No. 11; 2) granting of a variance from the Zoning Administrator to no longer be subject to the car share requirement of Planning Code Section 166; and, 3) authorization from the Planning Commission to convert the three car share spaces to guest parking.

- 1) Planning Code Section 303(e) states the following: "Authorization of a change in any condition previously imposed in the authorization of a conditional use shall be subject to the same procedures as a new conditional use." As such, your proposal to remove Conditional of Approval No. 11 would require approval from the Planning Commission as a new Conditional Use Authorization.
- 2) Planning Code Section 166 requires at least one car share space for the subject project and does not provide for any administrative exemption or modification of this requirement. As such, your proposal to not provide the required one car share space would require you to seek and justify a variance from the Zoning Administrator pursuant to Planning Code Section 305.
- 3) As proposed, the physical car share spaces would be retained for use by visitors of the development. Planning Code Section 151.1(b) requires the use to comply with the zoning provisions applicable to the relevant zoning district. The proposed "guest parking" is considered to be a "Parking Garage, Private" use per Planning Code Section 102, which defines the use as "*A Non-Retail Automotive Use that provides temporary parking accommodations for private automobiles, trucks, vans, bicycles, or motorcycles in a garage not open to the general public, without parking of recreational vehicles, motor homes, boats, or other vehicles, or storage of vehicles, goods, or equipment.*" This definition is consistent with the spaces being reserved for private temporary use and not dedicated to any specific "owner/user" for exclusive use. Planning Code Section 209.3 allows Private Parking Garages with a Conditional Use Authorization. Therefore, your proposal to convert the three car share spaces to guest parking would require a Conditional Use Authorization from the Planning Commission.

The following are additional points that were not requested in your letter, but may inform your decision moving forward:

- In 2014, Planning Code Section 151 was revised to limit the amount of residential off-street parking in several zoning districts. Currently, the Planning Code limits off-street parking in the RC Zoning District as follows: up to .5 parking spaces per dwelling unit is allowed as-of-right; up to .75 parking spaces per dwelling unit is allowed with conditional use authorization; and, more than .75 parking spaces per dwelling unit is not allowed. As the development currently provides one off-street parking space for each dwelling unit, the existing car-share spaces could not be designated to existing residential units because it would exceed current Planning Code limitations.

Matthew Demar, CCAM  
Marlow Owners Association  
P.O. Box 77045  
San Francisco CA 94107

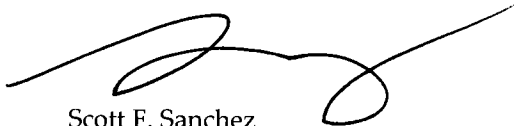
January 9, 2017  
Letter of Determination  
1800 Van Ness Avenue & 1754 Clay Street

- Please note that Planning Code Section 166(d)(2)(B) permits car share parking to be located on another off-street site within 800 feet of the building site. If you seek to pursue your proposal to remove the three car share spaces from the project, please be prepared to show evidence that you sought to satisfy the requirement through this alternative method.

**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

**APPEAL:** 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  
Zoning Administrator

cc: Sara Vellve, Planner  
Property Owner  
Neighborhood Groups



MARLOW

MARLOW OWNERS' ASSOCIATION

October 12, 2016

R# 2016-014937 ZAV  
CK # 001541 \$ 664.-  
D. LINDSAY (NW)

Office of the Zoning Administrator  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

**RE: REQUEST TO REMOVE CAR SHARE REQUIREMENT**  
**Marlow, 1788 Clay Street, San Francisco, CA 94109**  
**Assessor's Block 619,**  
**Lots 51 through 148, inclusive**  
**Formerly lot 49**  
**Formerly Lots 9 & 10**

Dear Zoning Administrator,

I am the manager for Marlow Owners Association, a 101 unit, 8 story condominium building located at 1788 Clay Street in San Francisco.

Marlow has 3 car share spaces which were originally occupied by ZipCar. However, the Association suffered numerous break-ins and vandalism from ZipCar users (Emails and flash drive with video attached) and the Board of Directors ultimately made the decision to terminate the ZipCar contract for the safety and security of the building.

The Association reached out to the other two car share companies, Enterprise Car Share and City Car Share, both of whom declined to offer car share services at Marlow.

The Association is requesting that the car share requirement be lifted from Marlow Owners Association, so that the Association may designate the spaces as "guest parking".

We want to thank you for your time and consideration when evaluating this request.

Sincerely,

Matthew Demar, CCAM  
As agent for Marlow Owners Association