



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

May 22, 2017

Bryant Street Holdings LLC
c/o Steve Vettel, Farella Braun + Martel
235 Montgomery Street
San Francisco, CA 94104
svettel@fbm.com

Name: 2000-2070 Bryant Street Land Dedication
Site Address: 2000-2070 Bryant Street
Assessor's Block/Lot: 4022/001, 002 and 021
Zoning District: UMU/68-X
Staff Contact: Rich Sucre, (415) 575-9108 or richard.sucre@sfgov.org

Dear Mr. Vettel:

This letter is in response to your January 23, 2017 letter, requesting a determination regarding the inclusionary housing land dedication condition of approval contained in Planning Commission Motion No. 19658 for the project known as 2000-2070 Bryant Street ("Project") located at 2000-2070 Bryant Street ("Property"). The Project is being undertaken by Bryant Street Holdings LLC, formerly known as 2070 Bryant Street JV LLC ("Project Sponsor").

On June 2, 2016, the Planning Commission approved a Large Project Authorization for the Project in its Motion No. 19658. The Inclusionary Housing condition of approval of Motion No. 19658 specifies that the project will satisfy its affordability requirement through a land dedication pursuant to Planning Code 419.5(a)(2) and recited that the Mayor's Office of Housing and Community Development (MOHCD) had confirmed in writing that the proposed dedication site meets the requirements of Section 419.5. The condition goes on to state that the land dedication process is to be completed and fee title to the land transferred to the City prior to issuance of the first construction document (in which case the project will have fully met its inclusionary housing obligation), but also states on page 35-36: "In the event, for whatever reason, fee title to the land dedication site is not transferred to the City by issuance of the first construction document for the Project, the Project Sponsor will be subject to the requirements of Planning Code Section 415 and 419." The Motion then goes on specify those alternative inclusionary housing requirements.

You indicated in your letter that the Project Sponsor is currently negotiating a Purchase and Sale Agreement (PSA) with MOHCD and the City's Real Estate Division for the dedicated land, at a purchase price of \$1.00. The Real Estate Division then needs to seek approval by the Board of Supervisors of a resolution approving the PSA and authorizing the City to accept the conveyance of the dedicated land. You indicated that the PSA will have certain other conditions, and the closing of escrow for transfer of the fee interest in the dedicated land will occur upon satisfaction of those conditions, including the Project

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Sponsor's obligation to demolish the building now occupying the land and deliver a grant deed and soil remediation funds into escrow.

You indicated that some of the PSA conditions will require the City to take certain actions that are beyond the control of the Project Sponsor (such as obtaining Board of Supervisors consent to the conveyance), and the City could delay the close of escrow beyond the date for issuance of the first construction document were it not to take those actions in a timely manner for whatever reason. Because of that, the Project Sponsor and its investors and lenders are concerned that, should for reasons outside the Project Sponsor's control, transfer of the fee title to the dedicated land be delayed by actions of the City, it would be unable to obtain a first and subsequent construction documents (or be significantly delayed) or be required to satisfy the requirements of Planning Code Section 415 and 419 in some other fashion after it had satisfied these contingencies and deposited a grant deed and remediation funds into escrow.

To address these concerns, I hereby determine that, notwithstanding the City undertaking certain ministerial actions, such as acceptance of the grant deed, for reasons unrelated to actions by or conduct of the Project Sponsor, if the following has occurred:

- 1) the Board of Supervisors has approved the PSA;
- 2) the PSA and related agreements have been fully executed by all parties;
- 3) the Project Sponsor has fulfilled all its obligations under the PSA;
- 4) the Project Sponsor has fulfilled all its obligations under the Land Dedication Alternative;
- 5) the Project Sponsor has deposited a grant deed for the land dedication parcel acceptable to the City into escrow under the terms of the PSA; and,
- 6) the Project Sponsor has deposited into escrow remediation and demolition funds required by the PSA.

Then, the Project Sponsor will be deemed to have satisfied the Land Dedication Alternative condition of approval of Planning Commission Motion No. 19658 and will not be required to fulfill in some other manner the requirements of Section 415 and 419.

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.

Steve Vettel
Farella Braun + Martel LLP
235 Montgomery Street

May 22, 2017
Letter of Determination
2000-2070 Bryant Street Land Dedication

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: Property Owner
Neighborhood Groups
Rich Sucre, Planner

January 23, 2017

R # 2017-000976 ZAD
CK # 6186 \$ 664.-
R. SUCRE (SE)

Scott F. Sanchez
Zoning Administrator
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: 2000-2070 Bryant Street (Block 4022, Lots 001, 002 and 021)
Land Dedication pursuant to Planning Code Section 419.5
Request for Letter of Determination

Dear Mr. Sanchez:

I am writing on behalf of 2070 Bryant Street JV, LLC, an affiliate of the Nick Podell Company, the project sponsor of the 2000-2070 Bryant Street project (Project Sponsor) to request a letter of determination as described below.

On June 2, 2016, the Planning Commission approved a Large Project Authorization for the 2000-2070 Bryant Street project (Motion No. 19658). The Inclusionary Housing condition of approval of Motion No. 19658 specifies that the project will satisfy its affordability requirement through a land dedication pursuant to Planning Code 419.5(a)(2) and recited that the Mayor's Office of Housing and Community Development had confirmed in writing that the proposed dedication site meets the requirements of Section 419.5. The condition goes on to state that the land dedication process is to be completed and fee title to the land transferred to the City prior to issuance of the first construction document, i.e., first addendum to the site permit (in which case the project will have fully met its inclusionary housing obligation), but also states on page 35-36: "In the event, for whatever reason, fee title to the land dedication site is not transferred to the City by issuance of the first construction document for the Project, the Project Sponsor will be subject to the requirements of Planning Code Section 415 and 419." The Motion then goes on to specify those alternative inclusionary housing requirements.

The Project Sponsor is currently negotiating a purchase and sale agreement (PSA) with MOHCD and the City's Real Estate Division for the dedicated land, at a purchase price of \$1.00, and we contemplate that agreement on the form of the final PSA will be reached in the next several weeks. The Real Estate Division then needs to seek approval by the Board of Supervisors of a resolution approving the PSA and authorizing the City to accept the conveyance of the dedicated land. The PSA will have certain other contingencies and the closing of escrow for transfer of the fee interest in the land will occur upon satisfaction of those contingencies,

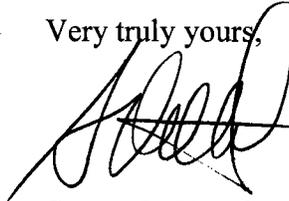
including the Project Sponsor's obligation to demolish the building now occupying the land and deliver a grant deed and soil remediation funds into escrow.

Some of the PSA contingencies will require the City to take certain actions that are beyond the control of the Project Sponsor (such as obtaining Board of Supervisors consent to the conveyance), and the City could delay the close of escrow beyond the date for issuance of the first construction document were it not to take those actions in a timely manner for whatever reason. Because of that, the Project Sponsor and its investors and lenders are concerned that, should for reasons outside the Project Sponsor's control, transfer of the fee title to the dedicated land be delayed by actions of the City, it would be unable to obtain a first and subsequent construction documents (or be significantly delayed) or be required to satisfy the requirements of Planning Code Section 415 and 419 in some other fashion after it had satisfied these contingencies and deposited a grant deed and remediation funds into escrow.

Accordingly, we seek your determination that, provided the Project Sponsor has negotiated a PSA with the City obligating it to dedicate the land at a \$1.00 purchase price and has fulfilled the contingencies as set forth in the PSA within its control, including depositing a grant deed and the soil remediation funds into escrow, it will have satisfied the Land Dedication Alternative condition of approval of Motion No 19658 and will not be required to fulfill in some other manner the requirements of Sections 415 and 419.

Enclosed is a draft letter for your consideration, as well as the LOD fee in the amount of \$664. Thank you for considering this request.

Very truly yours,



Steven L. Vettel

SLV:JLL
Enclosure

cc: Rich Sucre
Nick Podell
Linsey Perlov

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