



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

September 1, 2017

Ms. Patricia Hayes
120 Stonecrest Drive
San Francisco CA 94132

Site Address:	21 Brompton Avenue
Assessor's Block/Lot:	6744/031
Zoning District:	Glen Park Neighborhood Commercial Transit/ RH-2 (Residential – House, Two Family)
Staff Contact:	Erika Jackson, (415) 558-6363 or erika.jackson@sfgov.org
Record No.:	2017-009091ZAD

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Dear Ms. Hayes:

This letter is in response to your request for a Letter of Determination regarding the property at 21 Brompton Avenue. This parcel is located within two separate zoning districts: Glen Park Neighborhood Commercial Transit and a RH-2. The request is whether 1) the vacant lot, currently being used for parking, could be considered a legal nonconforming use, and 2) the lot could be developed with a surface paid public parking lot.

Proposed Project Scope

The proposed project is to develop the subject lot into a surface paid public parking lot with 19 parking spaces. The proposal requires a Variance from the Zoning Administrator because it would not comply with Planning Code Section 156(g)(1), which requires street trees at a ratio of one tree per five parking spaces. Additional authorizations are required from the Planning Commission, as discussed below.

Planning Code Provisions Relating To Parking Uses

With respect to the portion of the lot located in the Glen Park Neighborhood Commercial Transit District, Planning Code Section 756 requires a Conditional Use Authorization for a Public Parking Lot use. With respect to the portion of the lot located in the RH-2 Zoning District, Planning Code Section 209.1 requires a Conditional Use Authorization for a Private Parking Lot use and prohibits a Public Parking Lot use. Per Planning Code Section 102, the distinction between a Private Parking Lot and Public Parking lot is that a Public Parking Lot is a retail use, where the parking spaces are rented out to the general public, and the Private Parking Lot is a non-retail use not open to the general public.

Relevant History

A Planned Unit Development application was approved by the Planning Commission on July 11, 1963. Filed by the City's Real Estate Department, the application was sought in connection with the proposed acquisition of private property for public use, specifically the widening of Bosworth Street. At the time of filing, the subject property was seven separate lots, with the first three lots from the east zoned C-2 and developed with a mixture of single-family and two-family dwellings, stores and a gas station at the rear

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of the lot on the northeast corner of Diamond Street and Bosworth Street. The four lots on the western portion of the block were zoned R-2 and developed with a two-family dwelling and three single-family dwellings. In the years immediately following the application's approval, these buildings were demolished and relocated.

Bosworth Street was widened and the remaining portion of the lot was reserved for a future City-owned parking lot under the City's neighborhood parking program, as indicated in the Planning Commission report for Case R70.13:

"The sale of Lot 29, Block 6744 is in conflict with the Master Plan because a portion of it has been landscaped by the City as a part of the Bosworth Street widening project and because the remainder of it should be reserved for a public parking lot under the City's neighborhood parking program."

However, as indicated in a Memorandum to the City Planning Commission from the Director of Planning on December 13, 1971 in reference to Case R71.48, the City's Parking Authority had failed to demonstrate further interest in the parking lot proposal and the lot was proposed for sale:

"The Parking Authority has shown no interest in developing a neighborhood shopping district parking lot on the level portion of the property. The site would be suitable for housing for the elderly and staff members of Housing Authority have shown some interest, but at present the outlook for public housing there seems remote because of federal policies. In the meantime, a local realtor has actively sought to have the property declared surplus, and since there is no immediate public use it is difficult to recommend that the City retain it on the basis of unforeseen future public needs."

In 1971, and as a result of the proposed sale, the Planning Department issued a General Plan Referral finding that the sale of the landscaped portion of the subject lot along Bosworth Street was in conflict with the Master Plan, but that sale of the un-landscaped portion of the property along Kern Street – that which is now the subject property - would be consistent with the Master Plan. Three years later the sale of that portion of the property was consummated; I understand from your request that you were the purchaser.

As part of the General Plan Referral case file, a July 21, 1971 Memorandum identified potential uses of the lot and gave recommendations for future development. The Memorandum specified that the then-current use of the lot was that of "unauthorized parking":

"Parking Authority does not see need to develop subject city-owned lot for parking; however lot is presently used for unauthorized parking."

Conclusion

Although evidence demonstrates that the subject property has been used for parking since the 1970's, this use was never established or operated with the benefit of permit, nor was a Public Parking Lot a permitted use under the R-2 Zoning District in the 1970's. Further, no evidence has been provided that

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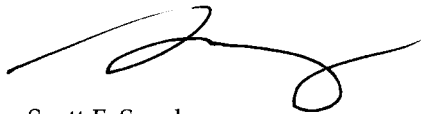
the use operated as a retail use, consistent with the definition of Public Parking Lot. Accordingly, I cannot find that the subject property contains a nonconforming Public Parking Lot use.

Furthermore, and as discussed above, today's Planning Code allows for a Public Parking Lot use only within the Glen Park NCT, and only then with Conditional Use authorization. It does not allow a Public Parking Lot use in an RH-2 Zoning District. As such, the closest related land use that one could pursue would be that of a Private Parking Lot, which similarly would require Conditional Use authorization.

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: Erika Jackson, Planner
Property Owner
Neighborhood Groups
BBN Requestor (if any)