



SAN FRANCISCO PLANNING DEPARTMENT

SAN FRANCISCO ZONING ADMINISTRATOR

NOTICE OF INTENT TO RENDER A DETERMINATION

UNDER PLANNING CODE SECTION 179.1

LEGITIMIZATION OF USES LOCATED IN THE EASTERN NEIGHBORHOODS

Notice is hereby given to the general public that an application involving the property described below was filed with the Planning Department for review as set forth in the Planning Code. The Zoning Administrator has reviewed the application and will render a determination at the end of a 30 day notification period on or after **December 18, 2013**.

290 Division Street – northern corner of the intersection of Division and 10th Streets, Lot 016 in Assessor's Block 3526 - Request for Legitimization of Office Use pursuant to Planning Code Section 179.1 to determine if up to 20,981 gross square feet of office use on various floors of the existing building is a legitimate use under the current PDR-1-G (Production Distribution and Repair - General) Zoning District and 40-X Height and Bulk District.

The subject site is within a 300-foot radius of your property.

Legitimization

Planning Code Section 179.1 allows the "legitimization" of certain existing land uses that did not obtain a use permit from the City—particularly office and housing—that were previously permitted in specific zoning districts, but are no longer permitted under the recent Eastern Neighborhoods rezoning. As part of the Eastern Neighborhoods rezoning process, the City determined it was desirable to allow these uses to legitimize. Legitimization requires evidence to show that such a use has been operating without the benefit of required permits for a certain period of time.

The Project Sponsor for **290 Division Street** provided substantial evidence that meets the minimum criteria set by Planning Code Section 179.1(b). The Zoning Administrator intends to issue a Letter of Legitimization for 18,293 square feet of rentable floor area of office space – along with associated circulation and wall space that falls under the definition of gross floor area per Planning Code Section 102.9 – at the subject property (see attached draft letter) on or after **December 18, 2013**, but seeks written comment prior to making a final determination. Once the Zoning Administrator issues a written determination, it is then appealable to the Board of Appeals within 15 days of issuance.

You are not obligated to take any action. For more information regarding the proposal, or to express concerns about the project, please contact the Planner named below as soon as possible.

Please note that the subject site is within a 300-foot radius of your property and this notice fulfills the notice requirement for Legitimization determinations per Planning Code Section 179.1. **For further information, contact Corey Teague at 415.575.9081 or corey.teague@sfgov.org.**

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

Reception:
415.558.6378

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Planning
Information:
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SAN FRANCISCO PLANNING DEPARTMENT

DRAFT Letter of Legitimization

December 18, 2013

John Kevlin
Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104

Site Address:	290 Division Street
Assessor's Block/Lot:	3526/016
Zoning District:	PDR-1-G
Staff Contact:	Corey Teague, (415) 575-9081 or corey.teague@sfgov.org

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Dear Mr. Kevlin:

This letter is in response to your request for a Letter of Legitimization per Planning Section 179.1 regarding the property at 290 Division Street. This parcel is located in the PDR-1-G Zoning District and a 40-X Height and Bulk District. The request is to legitimize 20,981 gross square feet of office space within the existing 34,942 square foot building.

Procedural Background

The Department received the request for legitimization of office space at 290 Division Street on January 17, 2012. Staff reviewed the request and associated materials and the Zoning Administrator issued a 30-day public notice of the intent to issue the Letter of Legitimization on November 18, 2013. The public notice also included a draft letter for review, and was sent to 1) all owners of property within 300 feet of the subject property, 2) all current tenants of the subject property, and 3) all individuals and neighborhood associations that had requested to receive such notice. Additionally, notice was posted on the site during the notification period. The notification period expired on December 17, 2013.

Eligibility

The land use proposed for legitimization is deemed eligible if it meets the following criteria:

- i. The land use existed as of the date of the application;

Lease documentation, rent rolls, and marketing materials indicate that office use existed in each unit listed in the general timeline table attached to this letter as Exhibit A, as of January 17, 2012, except for Units 300, 402, and 405.

- ii. The land use would have been principally permitted or permitted with conditional use authorization under provisions of the Planning Code that were effective on April 17, 2008;

Prior to the Eastern Neighborhoods rezoning, the subject property was located in the M-1 Zoning District, which principally permitted office uses.

- iii. The land use would not be permitted under current provisions of the Planning Code;

The property containing the subject building is located in the PDR-1-G Zoning District, which prohibits office uses.

- iv. The land use either has been (1) regularly operating for functioning on a continuous basis for no less than 2 years prior to the effective date of Planning Code Section 179.1, or (2) functioning in the space since at least April 17, 2008, and is associated with an organization, entity or enterprise which has been located in this space on a continuous basis for no less than 2 years prior to the effective date of Planning Code Section 179.1;

Lease documentation, rent rolls, marketing materials, and internet research indicate the office uses operated continuously in each unit listed in the general timeline table attached to this letter as Exhibit A, for no less than 2 years prior to January 19, 2009, except for Units 300, 402, and 405.

- v. The land use is not accessory to any other use;

The subject office uses are divided into small, individual office units that do not serve as an accessory use to any other use in the building.

- vi. The land use is not discontinued and abandoned pursuant to the provisions of Planning Code Section 183 that would otherwise apply to nonconforming uses.

Lease documentation, rent rolls, marketing materials, and internet research indicate that the office units listed in the general timeline table attached to this letter as Exhibit A have remained occupied during the required period, except for Units 300, 402, and 405.

Determination

It is my determination that the request for legitimization of the existing 20,981 rentable square feet of office use on a portion of the third floor, and the entire fourth floor of the subject building as shown on the attached plans, meets all the required criteria of Planning Code Section 179.1, except for Units 300, 402, and 405. Considering the reduction of these ineligible units, a total 18,293 square feet of rentable floor area – along with associated circulation and wall space that falls under the definition of gross floor area per Planning Code Section 102.9 – is deemed legitimate office space as defined in Planning Code 870.90. A Notice of Special Restrictions shall be filed on the subject property documenting the specific building area legitimized as office space as listed in this letter and documented on the proposed plans,

John Kevlin
Reuben, Junius & Rose, LLP
One Bush Street, Suite 600
San Francisco, CA 94104

December 18, 2013
Land Use Legitimization Letter
290 Division Street

attached as Exhibit B, prior to the approval of a site or building permit establishing such office space. This determination is **not** a project approval, or in any way a substitute for a Building Permit Application for the change of use to office space.

Please note that a Building Permit Application must be approved to legally convert the subject gross floor area to office. Additionally, the relevant impact fees outlined in Section 179.1(g), and elsewhere in the Municipal Code, shall be assessed as part of the Building Permit Application.

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 the Letter of Legitimization. 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,

Corey A. Teague
Acting Zoning Administrator

cc: Property Owner
Planning Commissioners
All Parties on the Notification Request List

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Exhibit A – Tenant List and Timeline

290 Division Street

Tenant Information for Units Requesting Legitimization*								
Unit	Rentable Sq. Ft.	2013	2012	2011	2010	2009	2008	2007
103	3,545	Cutting Edge	Cutting Edge	Cutting Edge	Cutting Edge	Cutting Edge	Cutting Edge	Cutting Edge
300	195	Vacant	Vacant	Vacant	Vacant	Vacant	Vacant	Vacant
302	2,215	Y Studios	Y Studios	Y Studios	Y Studios	Youth Speaks, Inc.	Youth Speaks, Inc.	Youth Speaks, Inc.
303	928	Michael Hennessy, Architect	At-Six Architecture	At-Six Architecture	At-Six Architecture	At-Six Architecture	At-Six Architecture	At-Six Architecture
304	1,141	Remain.com	Sustainable Global Sourcing	Sustainable Global Sourcing	Vacant	Intelligent Design	Intelligent Design	Intelligent Design
305	653	LHW Courier, Inc.	LHW Courier, Inc.	LHW Courier, Inc.	GHA Travel	GHA Travel	GHA Travel	GHA Travel
306	1,764	Remain.com	Remain.com	Remain.com	Remain.com	Remain.com	Remain.com	Remain.com
307	792	Environmental and Construction Solutions	Environmental and Construction Solutions	Environmental and Construction Solutions	Environmental and Construction Solutions	Environmental and Construction Solutions	Environmental and Construction Solutions	Environmental and Construction Solutions
308	Included in 306	Vacant	Remain.com	Remain.com	Remain.com	Remain.com	Remain.com	Vacant
311	709	Water Systems Optimization	Water Systems Optimization	Jackson Liles Architect	Jackson Liles Architect	Jackson Liles Architect	Jackson Liles Architect	Jackson Liles Architect
400	2,725	Potrero Chiropractors	Potrero Chiropractors	Potrero Chiropractors	Potrero Chiropractors	Potrero Chiropractors	Potrero Chiropractors	Potrero Chiropractors
401	1,756	Vacant	REM Design, Inc.	REM Design, Inc.	REM Design, Inc.	REM Design, Inc.	REM Design, Inc.	REM Design, Inc.
402	607	Guitar District	Guitar District	Vacant	Vacant	Earthwhile Endeavors, Inc.	Earthwhile Endeavors, Inc.	REM Design, Inc.

Exhibit A – Tenant List and Timeline

290 Division Street

Unit	Rentable Sq. Ft.	2013	2012	2011	2010	2009	2008	2007
403	1,520	Vacant	Motionloft	Motionloft	Motionloft	Earthwhile Endeavors, Inc.	Earthwhile Endeavors, Inc.	Earthwhile Endeavors, Inc.
405	1,886	Vacant	Motionloft	Motionloft	Vacant	Vacant	Vacant	Center for Sex & Culture
408	278	Vacant	REM Design, Inc.	REM Design, Inc.	REM Design, Inc.	REM Design, Inc.	REM Design, Inc.	REM Design, Inc.
411	267	Chatango, LLC	Chatango, LLC	Earthwhile Endeavors, Inc.	Earthwhile Endeavors, Inc.	Earthwhile Endeavors, Inc.	Earthwhile Endeavors, Inc.	Earthwhile Endeavors, Inc.
20,981		TOTAL RENTABLE SQUARE FEET						

**See lease documents and other materials for more specific dates of tenancy.*