



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Legitimization

September 8, 2009

J. Gregg Miller, Jr.
Pillsbury Winthrop Shaw Pittman, LLP
50 Fremont Street
San Francisco, CA 94105

RE: 660-680 Alabama Street
Block: 4020 Lot: 002

Dear Mr. Miller:

This letter is in response to your request for a letter of legitimization per Planning Section 179.1 regarding the property at 660-680 Alabama Street. This parcel is located in the Urban Mixed Use (UMU) Zoning District with a 68-X height and bulk limitation. The request is to legitimize the existing office use on all four floors of the subject building.

Procedural Background

The Department received the request for legitimization of office space at 660-680 Alabama Street on April 29, 2009. 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 August 4, 2009. 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 September 3, 2009.

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;

The following documentation indicates the office use existed as of April 29, 2009:

- o *A Business Registration Certificate for "Wild Brain Inc" dated March 2, 2009;*
- o *A lease agreement for "all the commercial space to be constructed" in the subject building between the David W. Allen Family Trust (Lessor) and Wild Brain, Inc. (Lessee) on June 21, 2000;*
- o *Two later modifications to the original lease, dated July 18, 2001, and September 20, 2002;*
- o *Case No. 2000.302E for a Negative Declaration was issued on September 11, 2000, for the addition of the upper three floors of the subject building to be used for business services.*

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

- 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 4-story subject building and property are located in the UMU Zoning District, which only permits one floor of office use for buildings of 2 to 4 stories.

- 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;

The following documentation indicates the office use has been regularly operating for no less than 2 years prior to January 19, 2009:

- o *A Business Registration Certificate for "Wild Brain Inc" dated March 2, 2009;*
- o *A lease agreement for "all the commercial space to be constructed" in the subject building between the David W. Allen Family Trust (Lessor) and Wild Brain, Inc. (Lessee) on June 21, 2000;*
- o *Two later modifications to the original lease, dated July 18, 2001, and September 20, 2002;*
- o *Case No. 2000.302E for a Negative Declaration was issued on September 11, 2000, for the addition of the upper three floors of the subject building to be used for business services.*

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

The subject office use occupies the entire gross floor area of the subject building and is the principal use.

- 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.

The documentation indicates the office use has been regularly operating since initial occupancy of the building in 2002.

Determination

It is my determination that the request for legitimization of the existing 39,691 gross square feet of office use on all four floors of the subject building, including the 4th floor mezzanine, and per the attached plans, meets all the required criteria of Planning Code Section 179.1. Therefore, the subject gross floor area is deemed legitimate office space as defined in Planning Code 870.90. This determination is not a project

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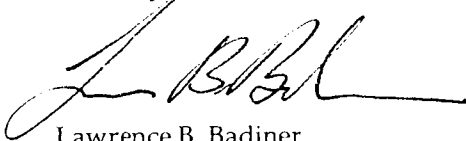
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approval, or in any way a substitute for a Building Permit Application for the change of use to office space.

Please note that before a Building Permit Application may be approved to legally convert the subject gross floor area to office, this project must (1) undergo an Annual Limit review for office space before the Planning Commission per Planning Code Section 321, and (2) pay the legitimization fee of \$10.50 per gross square foot.

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,



Lawrence B. Badiner
Zoning Administrator

cc: Corey Teague, Planner
Steve Wertheim, Planner
Planning Commissioners
All Parties on the Notification Request List

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