



# SAN FRANCISCO PLANNING DEPARTMENT

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## SAN FRANCISCO ZONING ADMINISTRATOR *REVISED* 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

**1098 Harrison – north side between 7<sup>th</sup> and Sherman Streets, Lot 017 in Assessor's Block 3754 – Request for Legitimization of Office Use** pursuant to Planning Code Section 179.1 to determine if the existing 42,039 gross square feet of office use is a legitimate use under the current MUG (Mixed Use General) District and a 65-X Height and Bulk District.

### 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 **1098 Harrison** 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 42,039 gross square feet of office space at the subject property on or after July 22, 2011 but seeks written comment prior to making a final determination. Once the Zoning Administrator makes a 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 concern 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 Diego R Sánchez at 415.575.9082 or [diego.sanchez@sfgov.org](mailto:diego.sanchez@sfgov.org).

Scott F Sanchez  
Zoning Administrator

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Suite 400  
San Francisco,  
CA 94103-2479

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**415.558.6378**

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## ***REVISED DRAFT* Letter of Legitimization**

[DATE]

Tuija I Catalano  
Reuben & Junius  
1 Bush Street, Suite 600  
San Francisco CA 94104

**RE: 1098 Harrison  
Block: 3754 Lot: 017**

Dear Ms. Catalano:

This letter is in response to your request for a Letter of Legitimization per Planning Code Section 179.1 regarding the property at 1098 Harrison. This parcel is located in the MUG (Mixed Use General) Zoning District with a 65-X Height and Bulk limitation. The request is to legitimize 42,039 gross square feet of existing office on the subject property.

### **Procedural Background**

The Department received the request for legitimization of office space at 1098 Harrison on January 13, 2011. 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 July 25, 2011. 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 July 22, 2011.

### **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 January 13, 2011:*

- o *A listing agreement for lease of the space through September 2009.*
- o *A Letter of Determination dated July 29, 1999 indicating the actual functioning use of the building to be an office use as currently defined by Planning Code Section 890.70.*
- o *Building Permit No. 9919344 issued on October 5, 1999, changing the use of the building from institutions use to office as part of an interior tenant improvement.*

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- 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 SLR (Service/Light Industrial/Residential) Mixed Use District which principally permitted the actual functioning of the building as an office under the Business Services use category.*

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

*The subject property is located in the MUG (Mixed Use General) Zoning District, which does not permit office use on the ground floor.*

- iv. The land use either has been (1) regularly operating or 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 lease agreement for "Digital Think" from June 18, 1999 to June 18, 2009.*
- o *A sublease agreement between "Digital Think" and the San Francisco Unified School District from November 2, 2002 to August 31, 2009.*

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

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

*While the building is currently vacant there have been no intentions to abandon the office use as evidenced by the listing agreement for lease of the building and the multiple fliers indicating the space for lease as an office.*

## Determination

It is my determination that the request for legitimization of the existing 42,039 gross square feet of office use, 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. 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, attached as Exhibit A, prior to the approval of a site or building permit establishing such office space. This

Tuija I Catalano  
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1 Bush Street, Suite 600  
San Francisco, CA 94104

[DATE]  
Land Use Legitimization Letter  
1098 Harrison Street

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 before a Building Permit Application may be approved to legally convert the subject gross floor area to office, this project must pay the applicable legitimization fee of \$2 per gross square foot.

## 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,

Scott Sanchez  
Zoning Administrator

cc: Diego R Sánchez, Planner  
Steve Wertheim, Planner  
Planning Commissioners  
Bruce Cardinal (Property Owner)  
All Parties on the Notification Request List

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