



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Letter of Legitimization

January 26, 2016

Brett Gladstone  
Hanson Bridgett LLP  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105

<b>Site Address:</b>	2525 16 <sup>th</sup> Street (aka 350 Florida Street)
<b>Assessor's Block/Lot:</b>	3966/001
<b>Zoning District:</b>	PDR-1-G
<b>Staff Contact:</b>	Corey Teague, (415) 575-9081 or <a href="mailto:corey.teague@sfgov.org">corey.teague@sfgov.org</a>

Dear Mr. Gladstone:

This letter is in response to your request for a Letter of Legitimization per Planning Section 179.1 regarding the property at 2525 16<sup>th</sup> Street. This parcel is located in the PDR-1-G Zoning District and a 68-X Height and Bulk District. The request is to legitimize approximately 51,792 rentable square feet of office space on various floors within the existing approximately 147,660 square foot building. The 51,792 square feet is located in Units 1B, 201, 204, 304, 310, 311, 316, and 400.

### Procedural Background

The Department received the request for legitimation of office space at 2525 16<sup>th</sup> Street on November 13, 2012. A supplemental letter and documentation was submitted on May 22, 2015. 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 or after December 6, 2015. 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. Notice was posted on each street frontage of the site during the notification period. The notification period expired on December 5, 2015. Finally, staff conducted a site visit to the subject property on January 7, 2016.

### Eligibility

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

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

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*A combination of lease documentation, invoices, owner and tenant affidavits, permit records, online information, photographs, and marketing materials indicate that office use existed in Units 1B, 201, 304, 310, 311 and 316 as of November 13, 2012 (see Exhibit A). Units 204 and 400 do not meet this criterion.*

- 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, invoices, owner and tenant affidavits, permit records, online information, photographs (including some provided by the applicant and some taken by staff on January 7, 2016), and marketing materials indicate the office uses operated continuously in Units 1B, 201, 304, 310, 311 and 316 (see Exhibit A), for no less than two years prior to January 19, 2009. Units 204 and 400 do not meet this criterion.*

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

*The subject office uses are divided into individual office units that do not serve as an accessory use to any other uses in the building. This was confirmed for Units 1B, 201, 304, 310, 311 and 316 through lease documentation, owner and tenant affidavits, online information, photographs (including some provided by the applicant and some taken by staff on January 7, 2016), and marketing materials. Units 204 and 400 do not meet this criterion.*

- 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, invoices, owner and tenant affidavits, permit records, online information, photographs (including some provided by the applicant and some taken by staff on January 7, 2016), and marketing materials indicate that Units 1B, 201, 304, 310, 311 and 316 (see Exhibit A) have remained occupied during the required period.*

Brett Gladstone  
Hanson Bridgett LLP  
425 Market Street, 26<sup>th</sup> Floor  
San Francisco, CA 94105

January 26, 2016  
Land Use Legitimization Letter  
2525 16<sup>th</sup> Street (aka 350 Florida Street)

## Determination

It is my determination that of the requested units for legitimization totaling approximately 51,792 rentable square feet of office use, only Units 1B, 201, 304, 310, 311 and 316 (see Exhibits A and B) meet all the required criteria of Planning Code Section 179.1, resulting in a total of approximately 43,569 rentable square feet. These units are deemed eligible to be legalized as legitimate office space as defined in Planning Code 102. 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 B, prior to the approval of a site or building permit establishing such office space. Units 204 and 400 do not meet the required criteria, and therefore are deemed ineligible for legalization.

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, or an associated Office Allocation per Planning Code Section 321. Such approvals are required to legally convert the subject space to office use. 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,



Scott F. Sanchez  
Zoning Administrator

Enclosure: Exhibit A – 2525 16<sup>th</sup> Street Tenant List and Timeline  
Exhibit B – 2525 16<sup>th</sup> Street Floor Plans

cc: Property Owner  
Planning Commissioners  
All Parties on the Notification Request List - (WITHOUT ATTACHMENT)

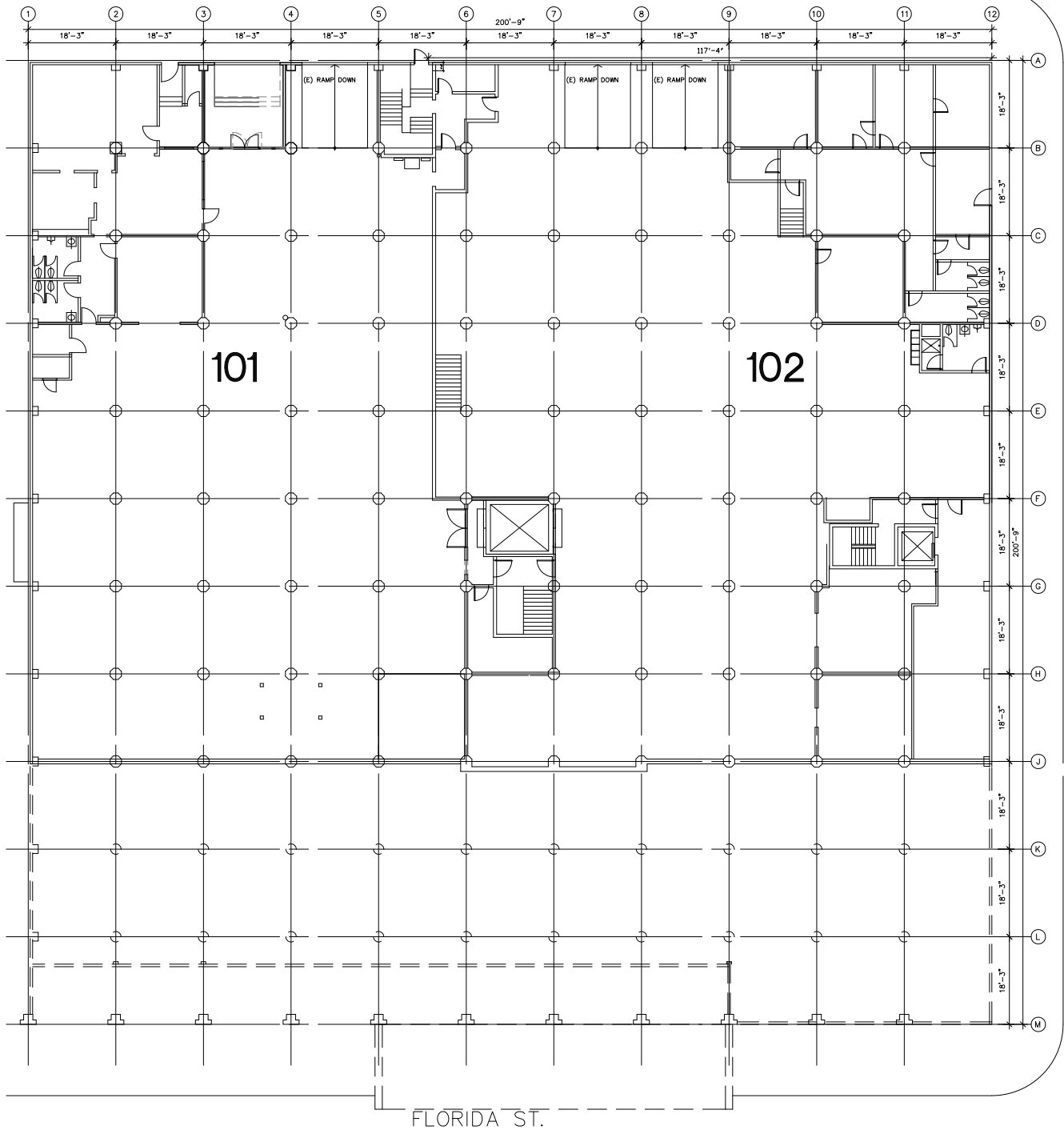
Exhibit A – Tenant List and Timeline

Tenant Information for Units Requesting Legitimization*											
Unit	Rentable Sq. Ft.	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006
<b>1B (201 16<sup>th</sup> St)</b>	420	PO Office	PO Office	PO Office	PO Office	PO Office	PO Office	PO Office	PO Office	PO Office	PO Office
<b>201</b>	12,401	Earnest	Events Management (through June)	Events Management	Events Management	Events Management	Events Management	Events Management	Events Management	Events Management	Events Management
<b>204</b>	2,045	Shooting Star	Shooting Star	Shooting Star	Belmar Upholstery (through June)	Belmar Upholstery	Belmar Upholstery	Belmar Upholstery	Belmar Upholstery	Belmar Upholstery	Belmar Upholstery
<b>304</b>	2,643	Vacant	Innovative	Innovative	Innovative	Innovative	Innovative	Innovative	Innovative	Innovative	Innovative
<b>310</b>	9,068	GLP	GLP	GLP	GLP	GMC (through July) GLP (as of September)	Timbuk2 (Jan-May) GMC (June-Dec)	Timbuk2	Timbuk2	Timbuk2 ( as of May 2007)	Zebra Hall
<b>311</b>	8,250	Events Management	Events Management (as of June)	Tune Up Media	Tune Up Media	Tune Up Media	Holt Hinshaw (through August)	Holt Hinshaw	Holt Hinshaw	Holt Hinshaw	Holt Hinshaw
<b>316</b>	10,787	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)	Talisman (w/GMC sublease)
<b>400</b>	6,178	Prodesign Eyeware	Prodesign Eyeware	Prodesign Eyeware	GMC Prodesign Eyeware (as of 8/1/12)	GMC (as of May)	Margaret O'Leary (through March)	Margaret O'Leary	Margaret O'Leary	Margaret O'Leary	Margaret O'Leary
<b>51,792</b>		<b>TOTAL RENTABLE SQUARE FEET</b>									

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

EXHIBIT B

ALABAMA ST.



1 | Floor Plan  
1/32" = 1'-0"

Project Name  
**Lion Building**  
2545 16th Street, San Francisco, CA

Project Number

Sheet  
**A.201 Lower Level**  
of

Description  
**1st Floor Layout**

Date  
**05/19/15**

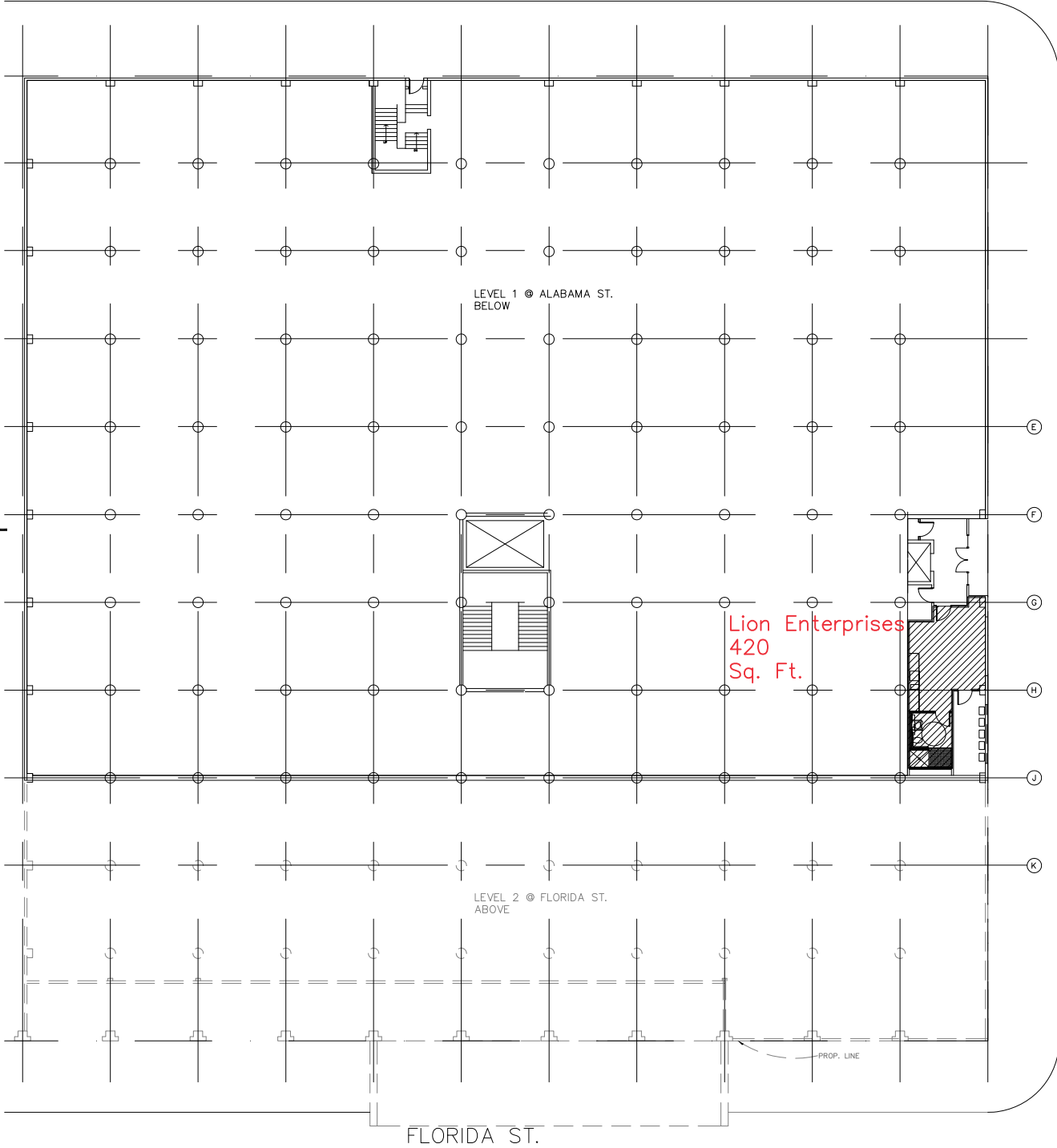
All drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of the architect.

**NOT FOR CONSTRUCTION**  
Ashdown  
Architecture, Inc.  
1681 Folsom Street, SF, CA  
94103  
tel 415 552 5126 fax 415  
552 5854

EXHIBIT B

ALABAMA ST.

16TH STREET



Lion Enterprises  
420  
Sq. Ft.

LEVEL 1 @ ALABAMA ST.  
BELOW

LEVEL 2 @ FLORIDA ST.  
ABOVE

PROP. LINE

FLORIDA ST.

1 | Floor Plan  
1/32" = 1'-0"

Project Name **Lion Building**  
2545 16th Street, San Francisco, CA

Project Number

Sheet  
A.201 16th St. Entrance  
of

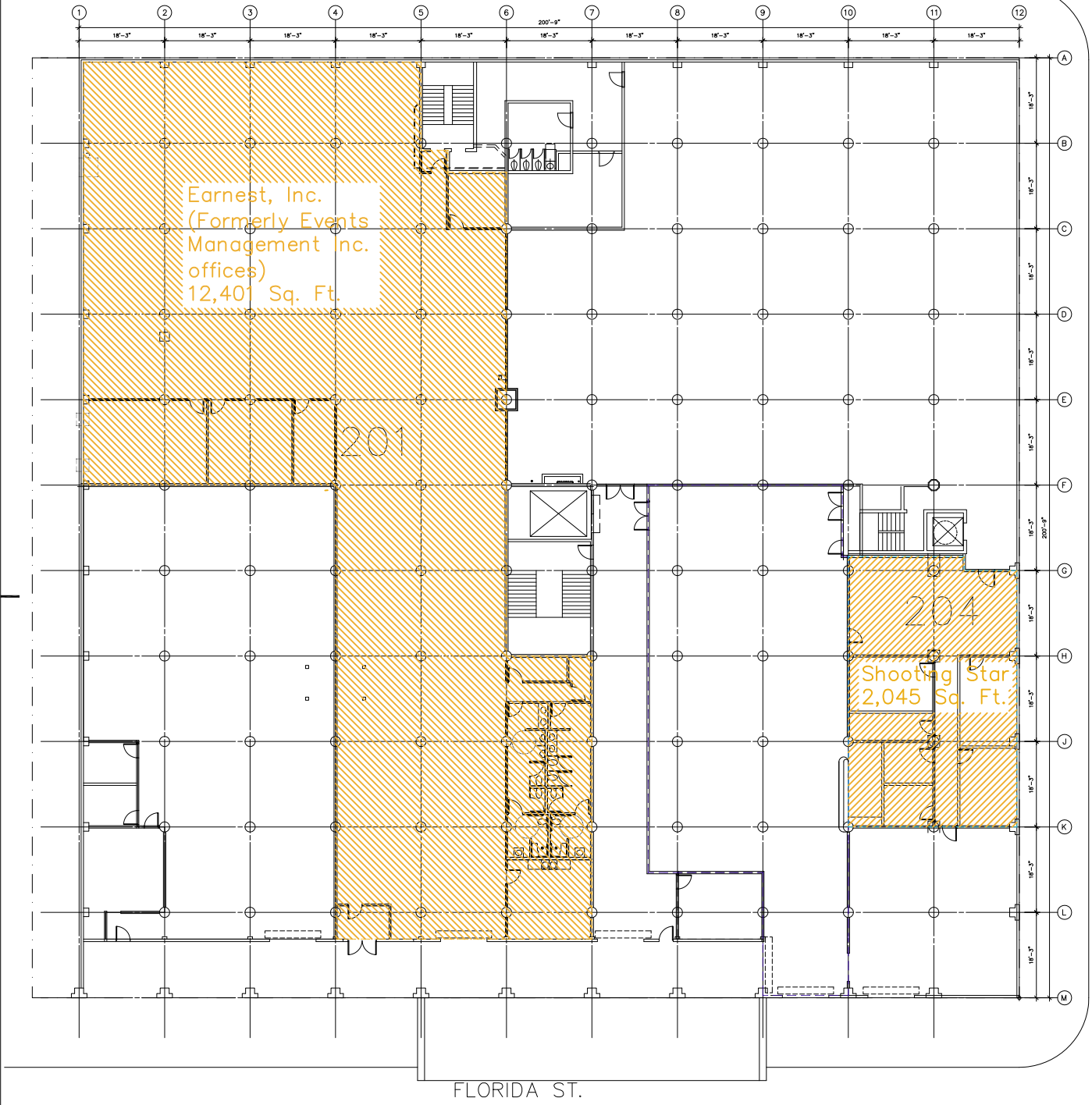
Description 16th St. Entrance  
Date 05/19/15

All drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of the architect.

**NOT FOR CONSTRUCTION**  
Ashdown  
Architecture, Inc.  
1681 Folsom Street, SF, CA  
94103  
tel 415 552 5126 fax 415  
552 5854

EXHIBIT B

ALABAMA ST.



1 | Floor Plan  
1/32" = 1'-0"

Project Name  
**Lion Building**  
2545 16th Street, SF, CA

Project Number

Sheet  
A.202  
of

Description  
2nd Floor Layout

Date  
05/19/15

All drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of the architect.

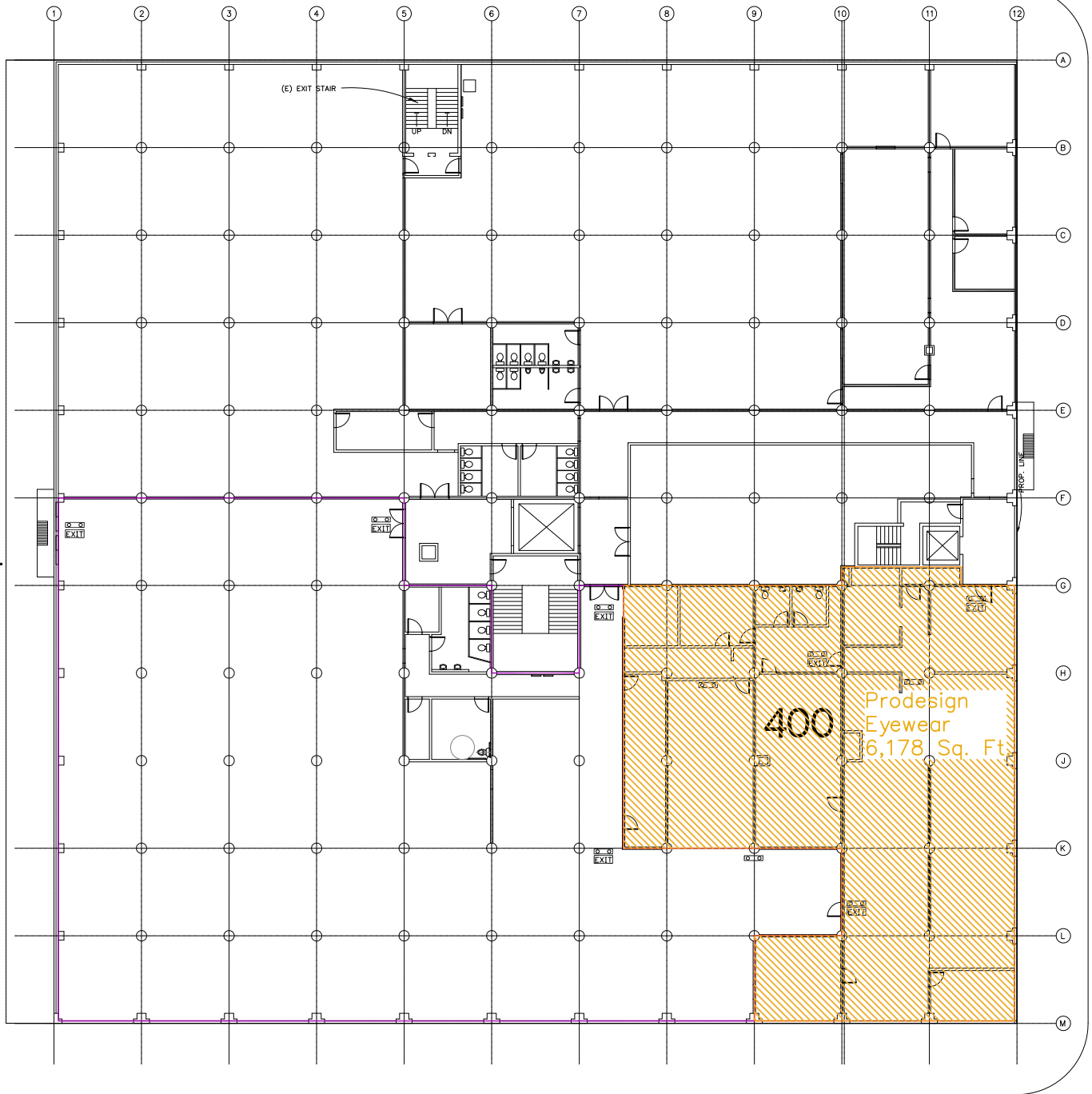
**NOT FOR CONSTRUCTION**  
Ashdown  
Architecture, Inc.  
1681 Folsom Street, SF, CA  
94103  
tel 415 552 5126 fax 415  
552 5854





EXHIBIT B

ALABAMA ST.



FLORIDA ST.

1 | Floor Plan  
1/16" = 1'-0"

Project Name  
**Lion Building**  
2545 16th Street, San Francisco, CA

Project Number

Sheet  
**A.204**  
of

Description  
**4th Floor Layout**

Date  
**05/19/15**

All drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of the architect.

**NOT FOR CONSTRUCTION**  
Ashdown  
Architecture, Inc.  
1681 Folsom Street, SF, CA  
94103  
tel 415 552 5126 fax 415  
552 5854

M. BRETT GLADSTONE

GLADSTONE & ASSOCIATES  
ATTORNEYS AT LAW  
PENTHOUSE, 177 POST STREET  
SAN FRANCISCO, CALIFORNIA 94108

TELEPHONE (415) 434-9500  
FACSIMILE (415) 394-5188  
admin@gladstoneassociates.com

November 13, 2012

VIA MESSENGER

ID # 10783 (SE) J. BANALES

CK # 2717 \$ 601. -

Mr. Scott Sanchez  
Zoning Administrator  
San Francisco Planning Department  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Re: 2525 - 16<sup>th</sup> Street (AKA 2545 - 167H ST)  
Assessor's Block 3966, Lot 001

Dear Mr. Sanchez:

On behalf of the property owner, we request a letter of legitimization pursuant to Planning Code Section 179.1 concerning the above-referenced property (the "Property").

The Property is situated within the PDR-1-G District and Transit Oriented Retail and Mission Alcohol Restricted Special Use Districts. The Property also is located in the 68-X Height and Bulk District. The Property is situated between Florida and Alabama Streets.

The Property is improved with a four-story building containing 147,660 square feet. The break down of the square footage is as follows:

first floor - 29,326 sq. ft. (including a small 16th St. office);  
2nd floor - 38,388 sq. ft.;  
3rd floor - 39,973 sq. ft.;  
4th floor - 39,973 sq. ft.

It is a four story building (of which the ground floor is partially unexcavated). According to the Building Department records, the building was constructed in 1924. Over the years, the building was partially converted to office space by various tenants, with or without the property owner's permission; or with the owner's permission but without review by the owner of the various small and large tenant improvement permits and plans applied for by tenants and subtenants. Of course, the owner did file some improvement applications directly and those were not submitted by a tenant or subtenant. If the owner did directly request the improvements, the

Mr. Scott Sanchez  
November 13, 2012  
Page Two

owner left the filing of applications and plans to the professionals who did so, and as many owners of large buildings with many suites do, presumed those professionals were competent in knowing what to place in permit applications and in plans in order to not only change non-office space to office spaces using correct materials, but to also make the use change legally correct through filling out paperwork correctly.

The information provided in this letter is not based on a site visit involving our office, and is based on client information.

### **Legitimization of Office Space.**

This letter requests legitimization of those areas shown on Exhibit A as office, which is supported by the leases for tenants in these areas.<sup>1</sup> The square footage calculations in the leases were done according to BOMA Measurement Standards. These Standards are recognized by the brokerage industry. The square footage numbers do not always match the square footage calculated by architects for tenants because tenants often do not want non-useable areas drawn by space planners and architects. Thus, you will see some discrepancies between the plans and the leases. The break down from the drawings of those areas is as follows:

<u>Floor</u>	<u>Square Footage</u>
First Floor	1,915 sf
Entry Level	420 sf
Second Floor	12,500 sf
Third Floor	31,067 sf
<u>Fourth Floor</u>	<u>15,078 sf</u>
Total SF of Office	60,980 sf

Various tenants have occupied these areas over the years. Some of the spaces are currently vacant. We have attached a chart showing the tenants and corresponding areas and square footage calculations (Exhibit B) and documentation that supports the office use (Exhibit C).

---

<sup>1</sup> In a separate letter, we also have requested a determination that certain areas on the entry level, second floor, and fourth floor contain legal nonconforming office use. In that letter we reserved the right to seek legitimization of these areas in the event the Zoning Administrator determines the areas do not contain legal nonconforming office use. This Request for Legitimization is being sent in so as not to miss the deadline for doing so; however, the submission of this Request is not to be deemed an admission that all the spaces need legitimization, as explained in the client's separate request for determination that certain of the spaces contain legal grandfathered uses.

GLADSTONE & ASSOCIATES  
ATTORNEYS AT LAW

Mr. Scott Sanchez  
November 13, 2012  
Page Three

Pursuant to Planning Code Section 179.1(b)(2), a property is eligible for legitimization if it meets the following criteria:

(A) The land use existed as of the date of the application;

The following documentation indicates the office use has been regularly operating or functioning on a continuous basis for no less than 2 years prior to the effective date of the Section 179.1 (Exhibit C);

1. Leases;
2. Tenant improvement permits showing contractors and/or architects obtained Building Department approval for office use throughout the building.

(B) 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 use.

(C) The use would not be permitted under current provisions of the Planning Code;

The property is located in the PDR-1-G Zoning District. Planning Code Section 219 states office is not a permitted use in this District.

(D) 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 (Exhibit C) indicates the office use has been regularly operating or functioning on a continuous basis for no less than 2 years prior to the effective date of the Section 179.1 or has been functioning in the space since 2008 and is associated with an entity in the building:

1. Leases;

GLADSTONE & ASSOCIATES  
ATTORNEYS AT LAW

Mr. Scott Sanchez  
November 13, 2012  
Page Four

2. Tenant improvement permits showing contractors and/or architects obtained Building Department approval for office use throughout the building.

According to Planning Code Interpretation 179.1(b)(2)(D)(1), "For purposes of this subsection, this criterion shall be considered satisfied even if such a continuous basis was interrupted by a period of vacancy so long as (1) the total period of vacancy was less than one year, (2) the space in question was actively being marketed for occupancy by the land use in question during such vacancy, and (3) the space in question has been occupied for at least two years by the land use in question."

Certain tenants have vacated the respective premises after 2008. Since that time, the property has been actively marketed for office use. (See Exhibit D.)

(E) The land use is not accessory to any other use;

The office use occupied the predominant portion of the tenants' premises and therefore could not be considered accessory space. (See Exhibit C.)

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

Portions of the building currently are vacant as noted on the plans attached as Exhibit A. According to the leases for these areas, the leases expired after January, 2008. Thus, the areas that are the subject of this request have not been vacant for a period of three or more years and therefore, the office use is not considered discontinued or abandoned.

In addition to the attachments noted above, we enclose the notification materials, and a fee in the amount of \$601.

Based on the above information, we request that you determine that 60,980 gross square feet of office use, per the attached plans, meets all the required criteria of Planning Code Section 179.1. Therefore, the office use will be deemed legitimized office space that can continue indefinitely unless converted to an allowed use, or abandoned for a period of three years or more.

Our client is reserving his right to contend that some or all of the spaces described above do not require legitimization; and that their use as offices and/or so-called "office-industrial flex space" is grandfathered by permits previously taken out as further described in our other letter to your office of today.

GLADSTONE & ASSOCIATES  
ATTORNEYS AT LAW

Mr. Scott Sanchez  
November 13, 2012  
Page Five

Please do not hesitate to contact me should you have any questions or comments.

Very truly yours,

A handwritten signature in black ink, appearing to be 'M. Brett Gladstone', with a large, stylized initial 'B' and a long horizontal stroke extending to the right.

M. Brett Gladstone

Enclosures

cc: Lion Enterprises  
Dwight Ashdown, Architect