



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 **January 4, 2012**.

375 Alabama Street – east side between 16th and 17th Streets, Lot 002 in Assessor's Block 3966 - Request for Legitimization of Office Use pursuant to Planning Code Section 179.1 to determine if the existing 48,189 gross square feet of office use on a portion of the third floor and the entire fourth floor is a legitimate use under the current PDR-1-G (Production Distribution and Repair - General) Zoning District and 68-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 **375 Alabama 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 48,189 gross square feet of office space at the subject property (see attached draft letter) on or after **January 4, 2012**, 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 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.**

Scott F. Sanchez
Zoning Administrator
December 5, 2011

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377



SAN FRANCISCO PLANNING DEPARTMENT

DRAFT Letter of Legitimization

January X, 2012

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

Site Address:	375 Alabama Street
Assessor's Block/Lot:	3966/002
Zoning District:	PDR-1-G
Staff Contact:	Corey Teague, (415) 575-9081 or corey.teague@sfgov.org

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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 375 Alabama 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 the existing office use on the entire third floor and a portion of the fourth floor, totaling 48,189 gross square feet.

Procedural Background

The Department received the request for legitimization of office space at 375 Alabama Street on August 25, 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 December 5, 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 January 4, 2012.

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 indicates that office use existed in each of the relevant units as of August 23, 2011. Specific tenants and general leasing times are listed in a timeline table under Section iv below.

- 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 use except in designated landmark buildings.

- 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 indicates the office use has been regularly operating for no less than 2 years prior to January 19, 2009. Specific tenants and general leasing times are listed in a timeline table below.

Tenant Information for Units Requesting Legitimization					
Unit	2011	2010	2009	2008	2007
300	Dynalectic	Dynalectic	Dynalectic	Dynalectic	SFCCD
325	ASS, Inc	ASS, Inc	ASS, Inc	ASS, Inc	SFCCD
350	ASS, Inc	ASS, Inc	ASS, Inc	ASS, Inc	SFCCD
355	LK Group	LK Group	LK Group	LK Group	SFCCD
356	LK Group	LK Group	LK Group	LK Group	SFCCD
360	HE, Inc	HE, Inc	HE, Inc	N/A	SFCCD
361	HE, Inc	HE, Inc	HE, Inc	N/A	SFCCD
365	Heist	Heist	Heist	Heist	SFCCD
366	D & Assoc.	D & Assoc.	D & Assoc.	D & Assoc.	SFCCD
370	Heist	Heist	Heist	Heist	SFCCD
371	Heist	Heist	Heist	Heist	SFCCD
380	DD, Inc.	DD, Inc.	DD, Inc.	DD, Inc.	SFCCD
400	DM Arch	DM Arch	DM Arch	ASS, Inc	ASS, Inc
410	BD, Inc	BD, Inc	BD, Inc	BD, Inc	BD, Inc
440	Kennerly Arch	Kennerly Arch	Kennerly Arch	Kennerly Arch	Kennerly Arch

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

The subject office uses occupy a portion of the third floor and the entire fourth floor as principle uses.

- 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.

Leasing documentation indicated that the relevant units have remained occupied during the required period. Units 360 and 361 are the only exceptions, as it took approximately two years for the owner to lease these units between 2007 and 2009.

Determination

It is my determination that the request for legitimization of the existing 48,189 gross 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. 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 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 (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.

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

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

January X, 2012
DRAFT Land Use Legitimization Letter
375 Alabama Street

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

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