



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Legitimization

DATE: June 28, 2013
David Silverman
Reuben & Junius
1 Bush Street, Suite 600
San Francisco CA 94104

Site Address: 999 Brannan Street
Assessor's Block/Lot: 3782/003
Zoning District: PDR-1-G (Production Distribution and Repair – General)
Staff Contact: Diego Sánchez, (415) 575-9082 diego.sanchez@sfgov.org

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Dear Mr. Silverman:

This letter is in response to your request for a Letter of Legitimization per Planning Code Section 179.1 regarding the property at 999 Brannan Street. This parcel is located in the PDR-1-G (Production, Distribution and Repair – General) Zoning District with a 40-X Height and Bulk District. The request is to legitimize 143,292 gross square feet of existing office use.

Procedural Background

The Department received the request for legitimization of office space at 999 Brannan Street on October 18, 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 March 29, 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 April 29, 2013.

Eligibility

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

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

The following documentation indicates the office use existed as of October 18, 2011:

- o Lease, effective October 1, 2003, and subsequent First Amendment to Lease, indicating a total of 143,292 square feet leased for office use. The 143,292 square feet area remains in use as office space.
- 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;

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Prior to the Eastern Neighborhoods rezoning, the subject property was located in the M-2 (Heavy Industrial) Zoning District which principally permitted the office use.

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

The subject property is located in the PDR-1-G Zoning District, which would not permit an office use in the subject building.

- 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 *First Amendment to Lease, effective December 1, 2004, and indicates the subject area in use for the purposes of office functions.*

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

The office use occupies the entire building and as such is the principal use of the building and not accessory to any other 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 subject property is presently occupied and is in continual use by the office tenant identified in the aforementioned First Amendment to Lease Agreement. There has been no discontinuance or abandonment of any office use.

Determination

It is my determination that the request for legitimization of the existing 143,292 gross square feet of office space, per the attached plans (Exhibit A), meets all the required criteria of Planning Code Section 179.1, and is therefore deemed to be a legal office use as defined in Planning Code Section 870.90. A Notice of Special Restrictions shall be filed on the subject property documenting the specific building areas legitimized as office use as listed in this letter and documented on the attached plans prior to the approval of a site or building permit establishing such office use. This determination is not a project approval, nor does it in any way a substitute for a Building Permit Application for the legitimization of the office space.

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Please note that before a Building Permit Application may be approved to legally establish the office space in question, this project must pay a \$2 per gross square foot Transit Impact Development Fee and an \$8.50 per gross square foot Jobs-Housing Linkage Fee per Planning Code Section 179.1, an application for an Office Allocation must be filed and the requested Office Allocation granted.

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
All Parties on the Notification Request List

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