



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Office Development Authorization

HEARING DATE: SEPTEMBER 13, 2012

Date: September 6, 2012
Case No.: **2011.1049B**
Project Address: **1098 Harrison Street**
Zoning: MUG (Mixed Use General)
65-X Height and Bulk District
Block/Lot: 3754/017
Project Sponsor: David Silverman
1 Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Diego R Sánchez – (415) 575-9082
diego.sanchez@sfgov.org
Recommendation: **Approval with Conditions**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The proposal is to establish 42,039 gross square feet of office use within an existing two-story building. The proposal is utilizing Planning Code Section 179.1, Legitimization of Uses Located in the Eastern Neighborhoods, as part of its request for an office allocation under Planning Code Sections 321 and 322, which govern the development and administrative procedures for office uses. No alterations are proposed to the exterior of the building.

SITE DESCRIPTION AND PRESENT USE

The project is located on the north side of Harrison Street, between Sherman and 7th Streets, and is Lot 17 in Assessor's Block 3754. The lot is approximately 100 feet deep and 275 feet wide and is improved with a two story building constructed in 1924, according to Assessor's records. The entire building is currently used by one office tenant, d.b.a. Atlassian Software Development.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located within the South of Market neighborhood, among numerous other buildings of similar age, scale and type. Immediately to the south of the site is Interstate 80. To the north and east of the site is Victoria Manalo Draves Elementary School and Victoria Manalo Draves Park, respectively. To the west, across 7th Street, are multiple two-story mixed use buildings, occupied by residential, retail or light industrial uses. The uses in the area are a mixture of retail, residential, public, and light industrial / production, distribution and repair uses. The surrounding properties are located within the P (Public Use), MUG (Mixed Use General), NCT (Neighborhood Commercial Transit), SLI (Service Light Industrial), and SLR (Service Light Industrial Residential) Zoning Districts.

ENVIRONMENTAL REVIEW

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	August 24, 2012	August 24, 2012	20 days
Posted Notice	20 days	August 24, 2012	August 24, 2012	20 days
Mailed Notice	N/A	N/A	August 24, 2012	20 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

PUBLIC COMMENT

- To date, the Department has not received any public input regarding this proposal.

ISSUES AND OTHER CONSIDERATIONS

- The Zoning Administrator determined the existing office space to be eligible for the legitimization process afforded under Planning Code Section 179.1. The legitimization process allows the existing building to be approved for office use despite the controls under Planning Code Section 840 that now prohibit office uses on the ground floor within the subject building.
- The table below shows the estimated amount of each fee due for the new office space proposed in this Project at the date of this report.

FEE TYPE	AMOUNT DUE
Transit Impact Development Fee	\$84,078.00
Jobs – Housing Linkage Fee	\$357,331.50
TOTAL	\$441,409.50

- There is currently 1.2 million square feet of Small Cap office space available under the Section 321 office allocation program.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must authorize the allocation of office space for the proposed 42,039 gross square foot office project per Planning Code Sections 179.1, 321, and 322.

BASIS FOR RECOMMENDATION

- The Zoning Administrator determined the proposed office space to be eligible for legitimization pursuant to Planning Code Section 179.1.
- The proposal represents an allocation of approximately 3.5% of the small cap office space currently available for allocation.
- Authorizing the requested office allocation will allow the leased office space to continue its economic activities.
- The proposal will generate approximately \$441,400 in fees that will benefit the City of San Francisco.
- The Project is consistent with the Planning Code, the East SOMA Area Plan and the General Plan.

RECOMMENDATION: Approval with Conditions
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Attachments:

- Block Book Map
- Sanborn Map
- Aerial Image
- Zoning Map
- Site Image
- Zoning Administrator Letter of Legitimization
- Project Sponsor Submittals

Attachment Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Community Meeting Notice |
| <input checked="" type="checkbox"/> Site Photos | <input type="checkbox"/> Housing Documents |
| <input checked="" type="checkbox"/> ZA Letter of Legitimization | <input type="checkbox"/> Inclusionary Affordable Housing
Program: Affidavit for Compliance |
| | <input type="checkbox"/> Residential Pipeline |

Exhibits above marked with an "X" are included in this packet

Planner's Initials

Parcel Map

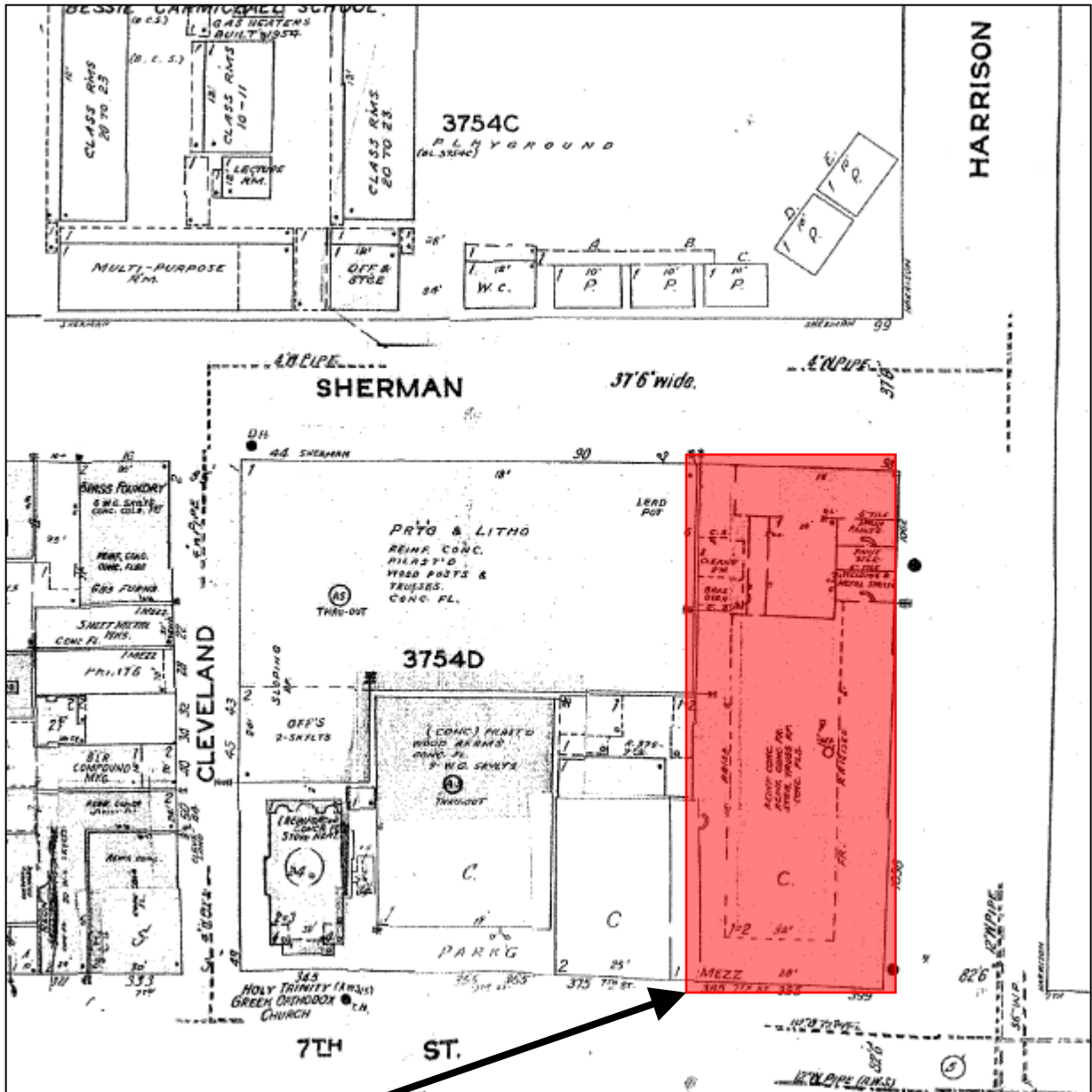


SUBJECT PROPERTY



Office Allocation
Case Number 2011.1049B
1098 Harrison Street

Sanborn Map*



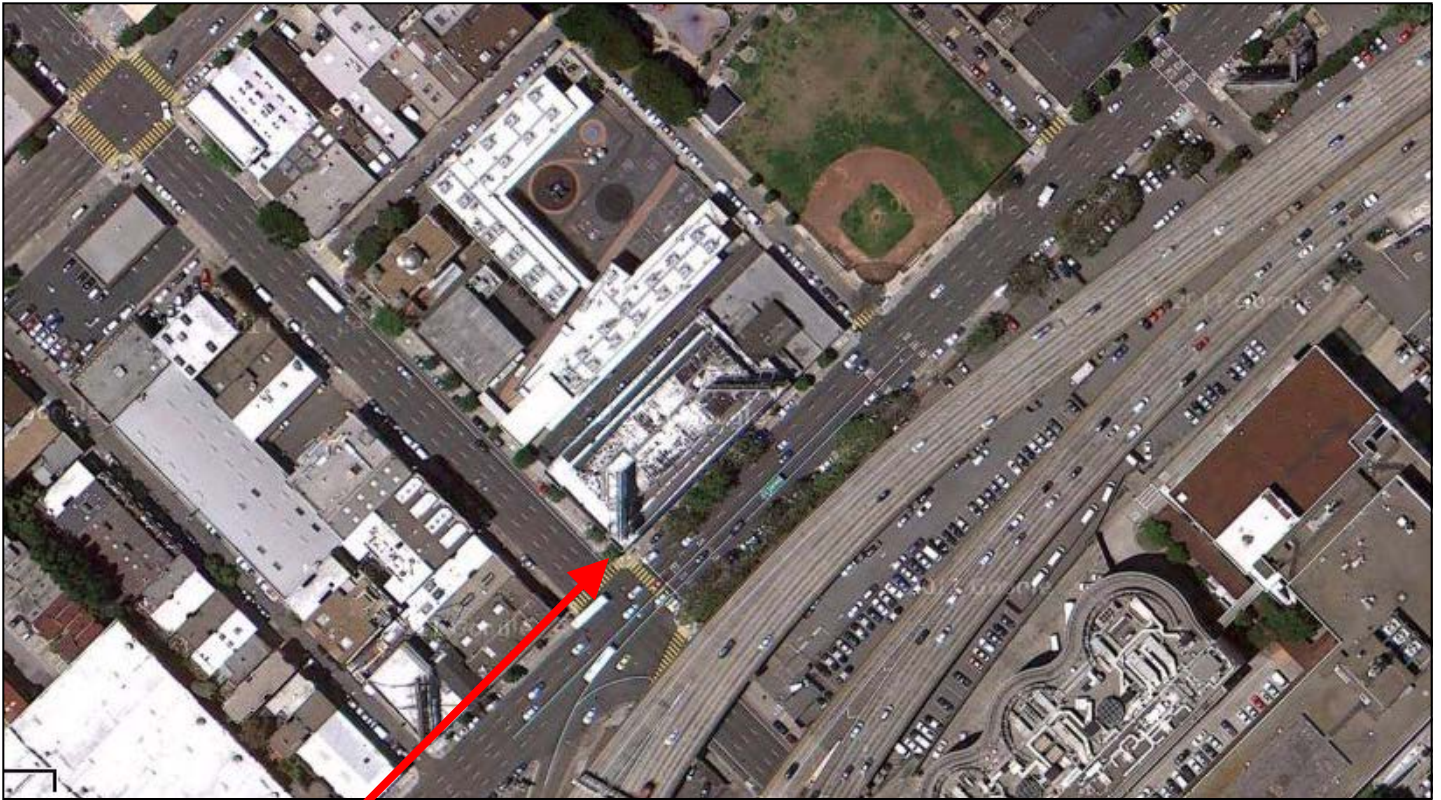
*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

SUBJECT PROPERTY



Office Allocation
 Case Number 2011.1049B
 1098 Harrison Street

Aerial Image

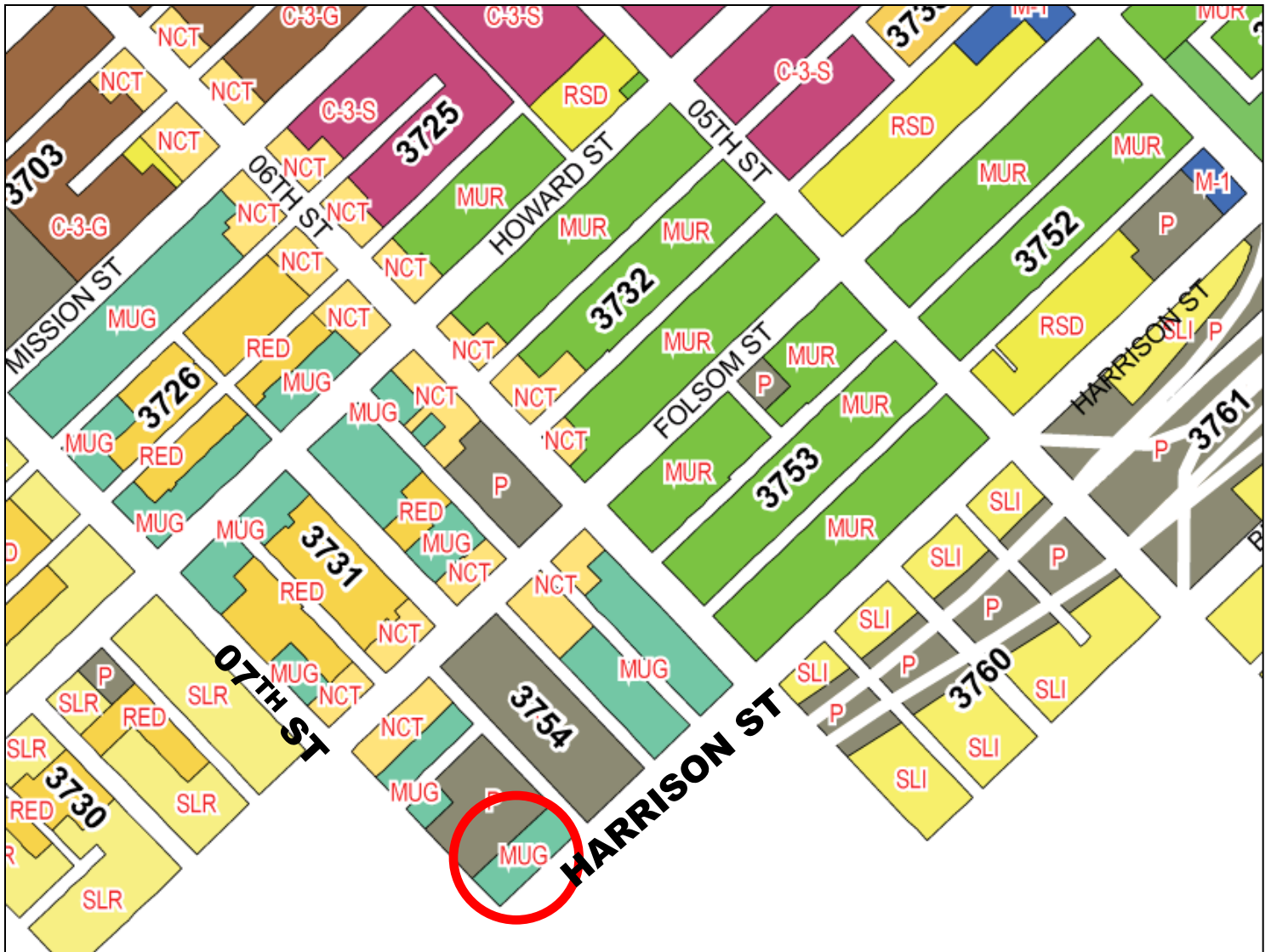


SUBJECT PROPERTY



Office Allocation
Case Number 2011.1049B
1098 Harrison Street

Zoning Map



Office Allocation
Case Number 2011.1049B
1098 Harrison Street

Site Image



Office Allocation
Case Number 2011.1049B
1098 Harrison Street



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Legitimization

August 5, 2011

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 legitimation 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 June 21, 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 legitimation 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
Reuben & Junius
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August 5, 2011
Land Use Legitimization Letter
1098 Harrison Street

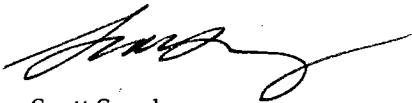
determination is **not** a project approval, or in any way a substitute for a Building Permit Application for the change of use to office space.

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

DRS: g:\documents\en legitimization\1098 harrison\final letter\1098 harrison en legitimization final.doc



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|---|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input checked="" type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |
| <input checked="" type="checkbox"/> Transit Impact Development Fee (Admin Code) | |

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Planning Commission Draft Motion

HEARING DATE: SEPTEMBER 13, 2012

Date: September 6, 2012
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Project Address: **1098 HARRISON STREET**
Zoning: MUG (Mixed Use General
65-X Height and Bulk District
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ADOPTING FINDINGS APPROVING ALLOCATION OF OFFICE SQUARE FOOTAGE UNDER THE 2012 – 2013 ANNUAL OFFICE DEVELOPMENT LIMITATION PROGRAM FOR A PROPOSED PROJECT LOCATED AT 1098 HARRISON STREET THAT WOULD AUTHORIZE THE CONVERSION OF 42,039 GROSS SQUARE FEET OF OFFICE USE PURSUANT TO PLANNING CODE SECTIONS 179.1, 321 AND 322 ON LOT 017 OF ASSESSOR'S BLOCK 3754 IN THE MUG (MIXED USE GENERAL) ZONING DISTRICT AND A 65-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On September 8, 2011 David Silverman (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for an Office Development Authorization to establish 42,039 gross square feet of office use at 1098 Harrison Street, within the MUG (Mixed Use General) Zoning District and a 65-X Height and Bulk District.

On September 13, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Office Allocation Application No. 2011.1049B.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Office Development requested in Application No. 2012.1098B, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the north side of Harrison Street, between Sherman and 7th Streets, and is Lot 17 in Assessor's Block 3754. The lot is approximately 100 feet deep and 275 feet wide and is improved with a two story building constructed in 1924, according to Assessor's records. The entire building is currently used by one office tenant, d.b.a. Atlassian Software Development.
3. **Surrounding Properties and Neighborhood.** The project site is located within the South of Market neighborhood, among numerous other buildings of similar age, scale and type. Immediately to the south of the site is Interstate 80. To the north and east of the site is Victoria Manalo Draves Elementary School and Victoria Manalo Draves Park, respectively. To the west, across 7th Street, are multiple two-story mixed use buildings, occupied by residential, retail or light industrial uses. The uses in the area are a mixture of retail, residential, public, and light industrial / production, distribution and repair uses. The surrounding properties are located within the P (Public Use), MUG (Mixed Use General), NCT (Neighborhood Commercial Transit), SLI (Service Light Industrial), and SLR (Service Light Industrial Residential) Zoning Districts.
4. **Project Description.** The proposal is to establish 42,039 gross square feet of office use within an existing two-story building. The proposal is utilizing Planning Code Section 179.1, Legitimization of Uses Located in the Eastern Neighborhoods, as part of its request for an office allocation under Planning Code Sections 321 and 322, which govern the development and administrative procedures for office uses. No alterations are proposed to the exterior of the building.
5. **Public Comment.** The Planning Department has not received any public input regarding this proposal.

6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Legitimization of Office.** Planning Code Section 179.1 established a time limited program wherein existing uses in the Eastern Neighborhoods plan area that have operated without the benefit of required permits may seek those permits. Uses that could be "legitimized" under this Section are those uses which, under the current provisions of this Code and without this Section, could not otherwise seek the required permits.

The Zoning Administrator issued a Letter of Legitimization on August 5, 2011 for this project stating that the project had met all the eligibility requirements of Section 179.1, and the requested 42,039 gross square feet of office use are eligible to be approved as office space pursuant to the Legitimization program.

- B. **Development Fees.** The Project is subject to the Transit Impact Development Fees per Planning Code Sections 179.1(g) and 411 and the Jobs-Housing Linkage Fee per Planning Code Sections 179.1(g) and 413.

The Project Sponsor shall pay the appropriate Transit Impact Development and Jobs-Housing Linkage Fees pursuant to Planning Code Sections 179.1(g), 411, and 413, at the appropriate stage of the building permit application process.

- C. **Office Allocation.** Planning Code Section 321 establishes standards for San Francisco's Office Development Annual Limit. In determining if the proposed Project would promote the public welfare, convenience and necessity, the Commission considered the seven criteria established by Code Section 321(b)(3), and finds as follows:

I. APPORTIONMENT OF OFFICE SPACE OVER THE COURSE OF THE APPROVAL PERIOD IN ORDER TO MAINTAIN A BALANCE BETWEEN ECONOMIC GROWTH ON THE ONE HAND, AND HOUSING, TRANSPORTATION AND PUBLIC SERVICES, ON THE OTHER.

The existing building has been used as office space for more than 12 years. There is approximately 1.2 million gross square feet of available "Small Cap" office space in the City at this time. The subject property is located in an area rich in land use diversity, including PDR uses, retail, housing, and public open space. The Project will help maintain the balance between economic growth, housing, transportation and public services.

II. THE CONTRIBUTION OF THE OFFICE DEVELOPMENT TO, AND ITS EFFECTS ON, THE OBJECTIVES AND POLICIES OF THE GENERAL PLAN.

The Project is consistent with the General Plan, as outlined in Section 7 below.

III. THE QUALITY OF THE DESIGN OF THE PROPOSED OFFICE DEVELOPMENT.

The proposed office space is within an existing building. The proposed reclassification of use does not include exterior additions or alterations to the existing building.

IV. THE SUITABILITY OF THE PROPOSED OFFICE DEVELOPMENT FOR ITS LOCATION, AND ANY EFFECTS OF THE PROPOSED OFFICE DEVELOPMENT SPECIFIC TO THAT LOCATION.

The proposal is an allocation and legitimization of an office use in existence since the late 1990s without complaint to the Planning Department Code Enforcement division regarding incompatibilities to the existing and surrounding uses. The legitimization of the office use in and of itself will not create any new, adverse impacts in the area.

V. THE ANTICIPATED USES OF THE PROPOSED OFFICE DEVELOPMENT IN LIGHT OF EMPLOYMENT OPPORTUNITIES TO BE PROVIDED, NEEDS OF EXISTING BUSINESSES, AND THE AVAILABLE SUPPLY OF SPACE SUITABLE FOR SUCH ANTICIPATED USES.

The existing area to be allocated and legitimized as an office use currently employs approximately 400 individuals, meets the needs of existing businesses by legally establishing approximately an additional 42,000 gross square feet of office space in a neighborhood where such office space provides locational opportunities and provides quality office space that is suitable for a variety of office uses and sizes.

VI. THE EXTENT TO WHICH THE PROPOSED DEVELOPMENT WILL BE OWNED OR OCCUPIED BY A SINGLE ENTITY.

The office space proposed for allocation and legitimization is currently occupied by a single entity (d.b.a. Atlassian Software Development).

VII. THE USE, IF ANY, OF TRANSFERABLE DEVELOPMENT RIGHTS ("TDR's") BY THE PROJECT SPONSOR.

The project will not use TDR's.

7. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

COMMERCE AND INDUSTRY

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

The allocation and legitimization of the office use will provide net benefits to the City in that an existing office tenant employing approximately 400 individuals will remain in San Francisco utilizing a building that has been used as an office since the late 1990's. The proposal is required to comply with the Conditions of Approval (Exhibit A), thereby ensuring reasonable performance.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The allocation and legitimization of the office use will retain an existing commercial office tenant that employs approximately 400 individuals and this signals to the greater business community that an attractive environment exist in San Francisco and the South of Market neighborhood in which to conduct commerce.

EAST SOMA PLAN AREA

Objectives and Policies

OBJECTIVE 1.1:

ENCOURAGE PRODUCTION OF HOUSING AND OTHER MIXED-USE DEVELOPMENT IN EAST SOMA WHILE MAINTAINING ITS EXISTING SPECIAL MIXED-USE CHARACTER.

Policy 1.1.2:

Encourage small flexible, office space throughout East SoMa and encourage larger office in the 2nd Street Corridor.

The proposed office use is not considered a larger office use in that it is less than 50,000 square feet in size, is located outside of the 2nd Street Corridor and is in accordance with the East Soma Plan for office location.

OBJECTIVE 1.3:

INSTITUTE FLEXIBLE "LEGAL NONCONFORMING USE" PROVISIONS TO ENSURE A CONTINUED MIX OF USES IN EAST SOMA.

Policy 1.3.1:

Continue existing legal nonconforming rules, which permit pre-existing establishments to remain legally even if they no longer conform to new zoning provisions, as long as the use was legally established in the first place.

Policy 1.3.2:

Recognize desirable existing uses in the former industrial areas which would no longer be permitted by the new zoning, and afford them appropriate opportunities to establish a continuing legal presence.

The requested allocation and legitimization will continue an existing non-conforming, desirable existing use in an area that principally permitted industrial uses and will legally establish the use through the process afforded by Planning Code Section 179.1.

8. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The proposal does not affect the retail sector as the project is wholly office in nature.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The proposal preserves the existing character of the neighborhood as the request is an allocation and legitimization of a use that has existed at the site since the late 1990's and that has not generated any incompatibilities with the surrounding area.

- C. That the City's supply of affordable housing be preserved and enhanced,

No housing is removed as a result of the proposal.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The proposal will not impede MUNI service or overburden streets and neighborhood parking as the proposal is an allocation and legitimization of an existing use.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The proposal will not displace industrial or service sector activities as the proposed office use has been in existence at the site since the late 1990's and the previous use was an institutional use.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposal will not affect the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The proposal will have no negative impact on existing parks and open spaces as there is no expansion to the existing two-story structure.

9. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
10. The Commission hereby finds that granting the Office Development Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Office Development Application No. 2011.1049B** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated September 6, 2012 and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 321 and 322 Office-Space Allocation to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 13, 2012.

Linda D. Avery
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: September 13, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for an office allocation to establish 42,039 gross square feet of office use in the existing building, located at Lot 17 in Assessor's Block 3754, pursuant to Planning Code Section(s) 179.1, 321, and 322 within the MUG (Mixed Use General) Zoning District and a 65-X Height and Bulk District; in general conformance with plans, dated September 6, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2011.1049B and subject to conditions of approval reviewed and approved by the Commission on September 13, 2012 under Motion No XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **September 13, 2012** under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXXX shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Office Development Authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Office Development Authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Office Development authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within eighteen months of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

3. **Development Timeline - Office.** Pursuant to Planning Code Section 321(d) (2), construction of the office development project shall commence within 18 months of the effective date of this Motion. Failure to begin work within that period or to carry out the development diligently thereafter to completion, shall be grounds to revoke approval of the office development under this Office Development authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

4. **Transit Impact Development Fee.** Pursuant to Planning Code Section 179.1(g), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

5. **Jobs Housing Linkage.** Pursuant to Planning Code Section 179.1(g), the Project Sponsor shall contribute to the Jobs-Housing Linkage Program (JHLP). The calculation shall be based on the net addition of gross square feet of each type of space to be constructed as set forth in the permit

plans. The Project Sponsor shall provide evidence that this requirement has been satisfied to the Planning Department prior to the issuance of the first site or building permit by the Department of Building Inspection.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING

6. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

7. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

8. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

9. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*



1098 Harrison Street

North Side of Harrison



South Side of Harrison

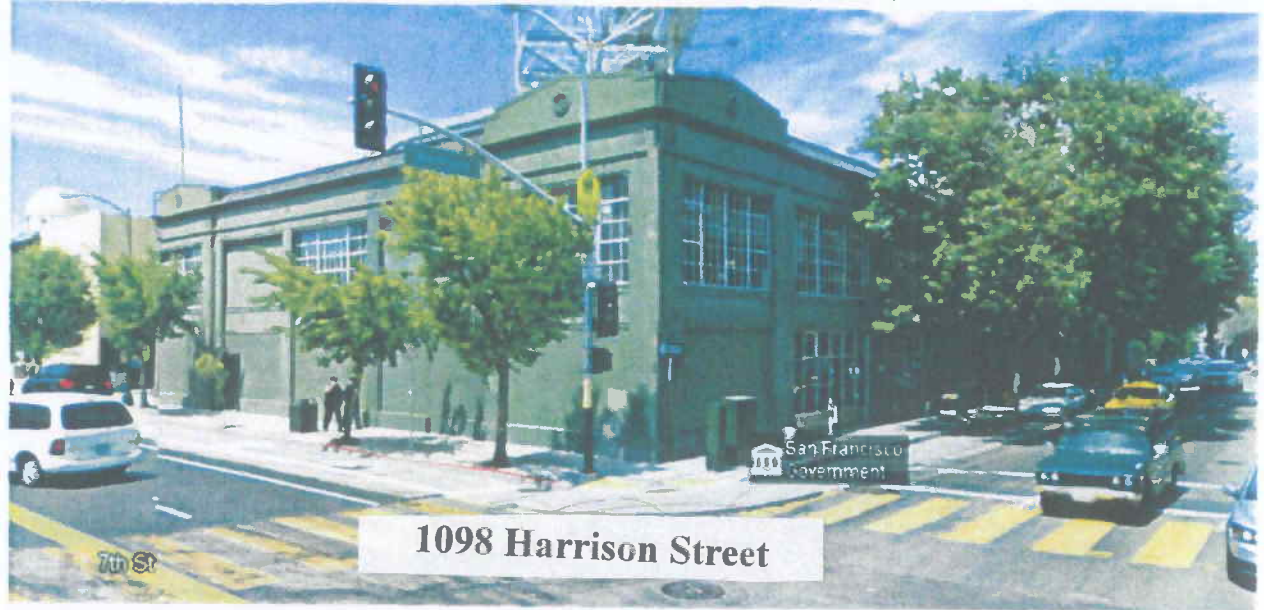


West Side of 7th Street



East Side of 7th Street

CORNER OF HARRISON AND 7th (and 7th STREET FAÇADE)

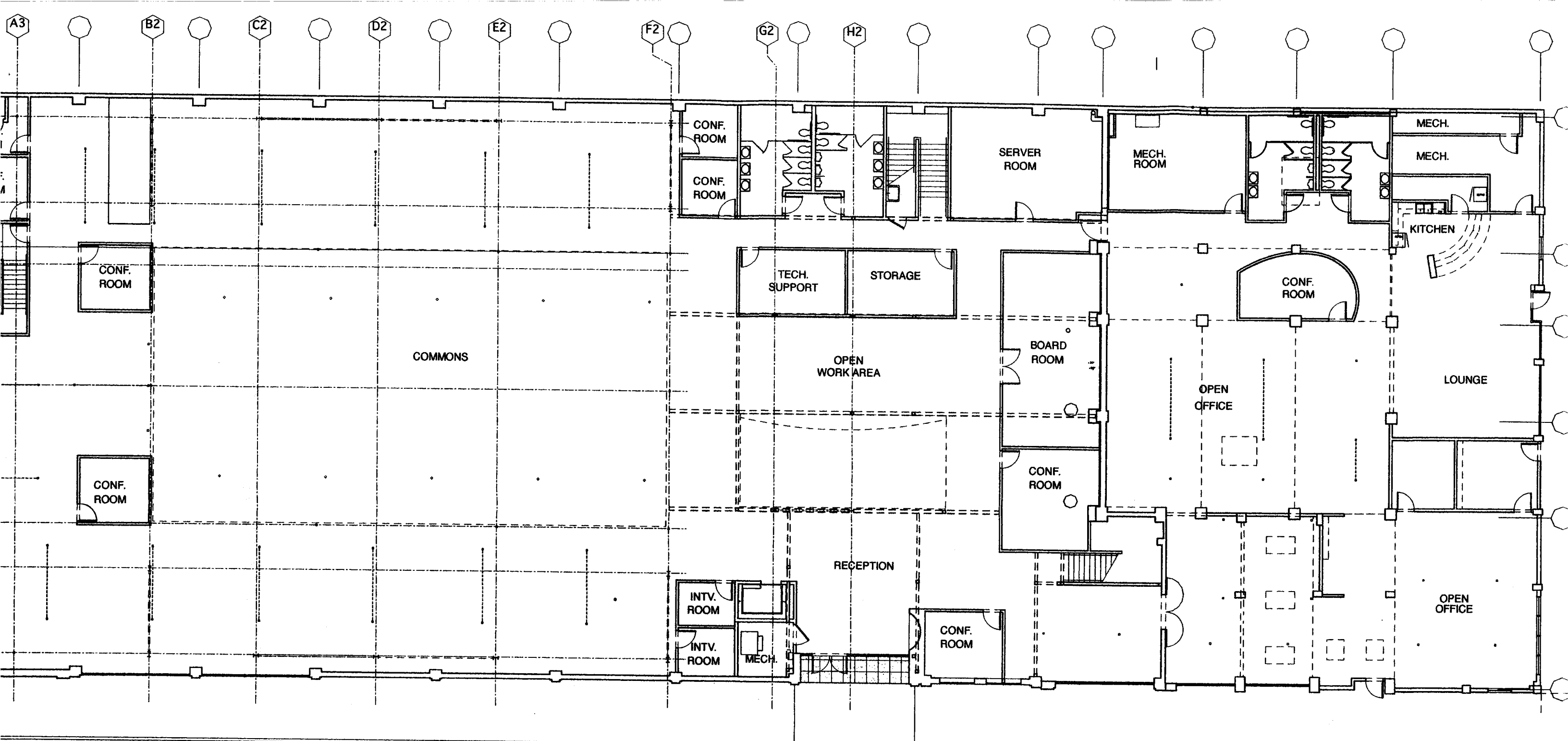


HARRISON STREET FAÇADE



SHERMAN STREET FAÇADE

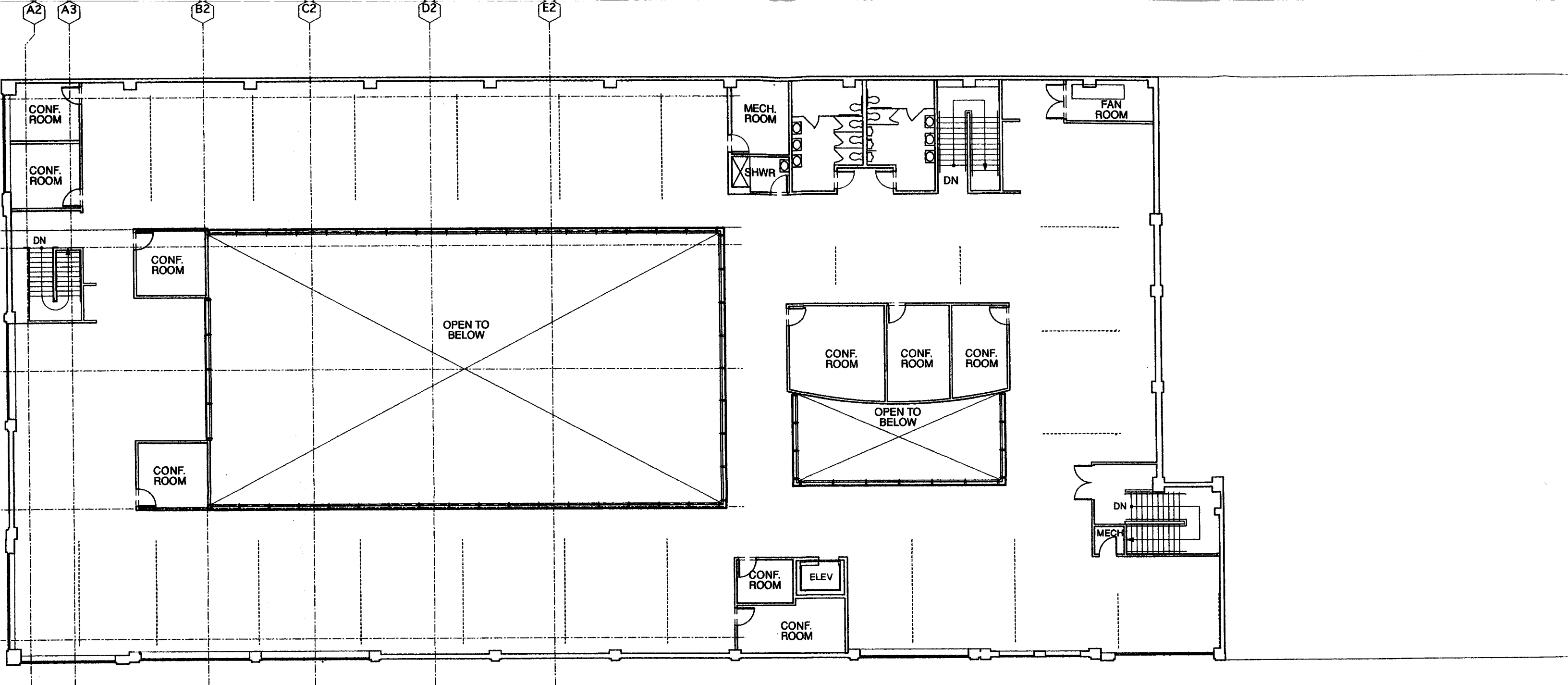




LAN
ng Set

Redbird Investment Group, LLC
1098 Harrison Street, San Francisco, CA

Sept 6, 2012



FLOOR PLAN
 Drawing Set
 = 1'0"

Redbird Investment Group, LLC
 1098 Harrison Street, San Francisco, CA

**Before the
San Francisco Planning Commission**

**PROJECT SPONSOR'S SUBMITTAL IN SUPPORT OF
APPLICATION FOR OFFICE ALLOCATION**

Planning Code Section 321

**1098 HARRISON STREET
(Assessor's Block 3754/Lot 017)**

**Project Sponsor:
Bruce Cardinal/Redbird Investment Group LLC**

Hearing Date: September 13, 2012

Attorneys for Project Sponsor:



One Bush Street, Suite 600, San Francisco, CA 94104
t] 415 567 9000 f] 415 399 9480

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A. INTRODUCTION

Bruce Cardinal/Redbird Investment Group LLC (“Project Sponsor”) seeks Project Authorization by the Planning Commission under Planning Code Section 321 for an office allocation of 42,039 square feet at 1098 Harrison Street (“Existing Building” or “Project Site”). On August 5, 2011, the Zoning Administrator issued a Letter of Legitimization for the existing office space at the Project Site pursuant to Planning Code Section 179.1, which legitimized the office use at the Project Site (**Exhibit A**). The office use has been the actual functioning use since July 29, 1999, as evidenced by Building Permit No. 9919344 issued on October 5, 1999, which changed the use from institution to office. The Project Site is occupied by Atlassian Software Development.

B. SITE INFORMATION

Street Address:	1098 Harrison Street
Cross Streets:	Sixth and Seventh Streets
Assessor's Block/Lot:	3754/17
Zoning District:	MUG (Mixed-Use General)
Height/Bulk District:	65-X
Lot Area:	27,512 sq. ft.
Floors:	One

C. EXISTING SITE CONDITIONS

The Project Sponsor owns the property and building at the Project Site. The Project Site lies in the block bounded by Harrison, Sixth, Folsom, and Seventh Streets. The Existing Building was used by Digital Think (June 18, 1999 to November 5, 2002) and then by the San Francisco Unified School District (November 5, 2002 to August 31, 2009), and was leased to Atlassian Software Development on June 26, 2011 for a seven-year term. The Project Site has no off-street parking or loading. It is a one story plus mezzanine building.

The Project Site is located within the City’s South of Market (“SOMA”) area. The SOMA area has developed quickly due to several factors making it a preferred location for multimedia and software firms.

The Project Site is well served by public transit and freeways. Twelve different Municipal Railway (“Muni”) transit lines stop within one block of the Project Site: the 8X, 8AX/BX, 10, 12, 14, 14L, 19, 27, 30, 40, 47, and 76 Muni lines. Caltrain’s San Francisco terminus is two blocks away, at Townsend and Fourth Streets.

The Project Site is situated within the MUG (Mixed-Use General) Zoning District and the Eastern SOMA Plan Area. The MUG district is designed to accommodate a wide variety of uses to support the growth of general commercial uses in the area.

The Project Site is located only two blocks from the South of Market Extended Preservation District. The district contains an extraordinary concentration of warehouses from almost every period of the City’s maritime history, including both the one-story design popular during the latter part of the 19th Century, and the multi-story warehouses that became more common in the early part of the 20th Century. The vast majority of warehouses built after 1945 have been one-story. The Project would contribute to the district by harmonizing with the historic warehouses found there. (See photographs attached as **Exhibit B**).

D. PROPOSED ACTION

The Project Sponsor seeks project authorization under Planning Code Section 321, to allocate 42,039 gross square feet of “additional office space,” from the reserve for smaller buildings of 25,000 to 49,999 sq. ft. for the current office approval period, or from any unallocated carryover from a prior approval period, as defined under Planning Code Section 321(b) and 890.70.

E. COMPLIANCE WITH SECTION 321 CRITERIA

Under Section 321 of the Planning Code, the Planning Commission may approve office allocations that the Commission determines promote the public welfare, convenience and necessity. (Plan. Code §321(b)(1).) To determine whether a particular office allocation promotes the public welfare, convenience and necessity, the Planning Commission must consider seven criteria. (Id. §321(b)(3).) The Planning Commission should approve the allocation, because it satisfies each criterion, as follows.

(A) APPORTIONMENT OF OFFICE SPACE OVER THE COURSE OF THE APPROVAL PERIOD IN ORDER TO MAINTAIN A BALANCE BETWEEN ECONOMIC GROWTH, ON THE ONE HAND AND HOUSING, TRANSPORTATION AND PUBLIC SERVICES, ON THE OTHER.

The Project Site is located within the MUG (Mixed-Use General) Zoning District. (Plan. Code §840.) The MUG Zoning District is designed to accommodate a wide variety of commercial uses. (*Id.*) The Project Sponsor proposes to allocate 42,039 gross square feet of office space to the City's office stock, meeting a need within SOMA for such use. By bringing office workers into the neighborhood, the Project would also enhance the viability of nearby retailers, restaurants and business services. The Project's office use would provide employment opportunities for local residents.

The economic benefits from the Project to the City are balanced by the Project's compatibility with other public goals. The Project would mitigate any effect on the City's supply of affordable housing by paying \$8.50/sq. ft. in mitigation fees (\$337,331.50) pursuant to Planning Code Section 179.1(g)(1)(B) to the Jobs-Housing Linkage Program. The Project is also designed to minimize any impact on the City's transportation systems. As discussed in more detail in response to Criterion B(4) below, the Project Site has excellent access to public transit. The Project would also pay \$2.00/gross sq. ft (\$84,078) into the City's Transit Impact Development Fund to mitigate costs incurred by Muni in meeting peak-period public transit demand created by the Project pursuant to Planning Code Section 179.1(g)(1)(A).

(B) THE CONTRIBUTION OF THE OFFICE SPACE TO, AND ITS EFFECTS ON, THE OBJECTIVES AND POLICIES OF THE GENERAL PLAN.

The Project would serve several objectives and policies of the City's General Plan, as follows:

1. Policies of the East SOMA and SOMA Area Plan.

EAST SOMA PLAN - OBJCTV. 1, Policy 1.1.2 Encourage small flexible office uses throughout East SOMA.

To carry out this policy, the General Plan provides that office activities should be concentrated in the eastern and part of the southern edges of the SOMA area, where they already predominate. The Project would add 42,039 square feet of office space in this subarea, which corresponds to the MUG (Mixed-Use General) Zoning District.

EAST SOMA PLAN - OBJCTV. 1, Policy 1.3.1 *Continue existing legal non-conforming uses, even if they no longer conform to new zoning provisions.*

The requested allocation will continue the existing legal non-conforming use.

EAST SOMA PLAN - OBJCTV. 1.3 *Institute flexible “legal non-conforming use” provisions to ensure a continued mix of uses in East SOMA.*

See 1.3.1

EAST SOMA PLAN - OBJCTV. 1, Policy 1.4.1 *Permit limited office space throughout East SOMA to support flexible space for all types of office users.*

See 1.3.1

SOMA AREA PLAN - OBJCTV. 1, Policy 4 *Provide sufficient land and building area to accommodate the reasonable growth and expansion of the South of Market’s diverse economic activities.*

The requested allocation will accommodate reasonable growth of multimedia and software businesses.

Existing building heights range from 20 to 50 feet with only some buildings having a height of over 50 feet. The Existing Building has a FAR of 1.0 to 1, slightly lower than the SOMA-wide average. The proposed allocation would preserve the existing scale and character of the East SOMA Plan Area while providing office space for East SOMA’s diverse businesses.

EAST SOMA AREA PLAN - OBJCTV. 4, Policy 4.8 *Encourage alternatives to car ownership and the reduction of private vehicle trips.*

SOMA AREA PLAN - OBJCTV. 5, Policy 1 *Provide incentives for the use of transit, taxi, carpools and*

vanpools, and reduce the dependence on automobile parking facilities, particularly by area workers.

The Project is compatible with carrying out the City's "Transit First" policy. Twelve different Municipal Railway ("Muni") transit lines stop within short walking distance of the Project Site: the 8X, 8AX/BX, 10, 12, 14, 14L, 19, 27, 30, 40, 47, and 76 Muni lines. Caltrain's San Francisco terminus is five blocks away, at Townsend and Fourth Streets.

The Project Sponsor will provide on-site services to its office tenants to promote and coordinate effective and efficient use of transit. These factors should minimize the need of people using the completed Project to depend on automobile parking facilities.

SOMA AREA PLAN - OBJCTV. 7, Policy 2 Preserve the architectural character and identity of South of Market residential and commercial/industrial buildings.

SOMA AREA PLAN - OBJCTV. 7, Policy 3 Preserve areas which contain groups of buildings of historic, architectural, or aesthetic value and which are linked by important historical or architectural characteristics.

SOMA AREA PLAN - OBJCTV. 7, Policy 4 Preserve individual architecturally and/or historically significant buildings which contribute to the area's identity, give visual orientation, and which impart a sense of continuity with San Francisco's past.

EAST SOMA AREA PLAN - OBJCTV. 8, Policy 8.2.1 Protect significant historic and cultural resources in the East SOMA Plan from demolition or adverse alteration

SOMA is an important visual landmark for the City. The district contains an extraordinary concentration of warehouses from almost every period of the City's maritime history, including both the one-story design popular during the latter part of the 19th

Century, and the multi-story warehouses that became more common in the early part of the 20th Century. The Project would contribute to the SOMA district by preserving the existing building. As described above, the Project would contribute to the district by harmonizing with the historic warehouses found there.

EAST SOMA AREA PLAN - OBJECTV. 8, Policy 8.2.2 Promote and offer incentives for the rehabilitation and adaptive re-use of historic buildings in the East SOMA Area Plan.

The Project Site is located within several blocks of the South of Market Extended Preservation District. Typical buildings in the district are late 19th-century and early 20th-century warehouses made of brick or concrete. (See Plan. Code, art. 10, appx. I, §5, ¶¶3, 4.) To help promote Objective 7 of the SOMA Area Plan, and Objective 8 of the East SOMA Plan, the Existing Building is compatible with the historic structures around it and will be preserved by the requested allocation.

2. Policies of the Commerce and Industry Element.

OBJECTV. 1, Policy 1 Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

OBJECTV. 1, Policy 3 Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The Project would provide office space in an area of the City where office use is needed for the expanding multimedia and software sector, a dynamic source of new jobs for the City. The Project Site is extraordinarily well served by public transit lines, so the Project is unlikely to impact the City's public transit system.

OBJECTV. 2, Policy 1 Seek to retain existing commercial and industrial activity and to attract new such activity to the city.

The Project Site is ideally located to serve the demand by multimedia and software companies for office space. Approximately 400 multimedia firms employ nearly 50,000 people in the City. The complexity and creativity of multimedia and software uses will likely preserve the need of multimedia and software businesses to

cluster in the City. Thus, the Project would help the City to continue to retain and attract multimedia and software businesses and the jobs they provide.

OBJECTV. 4, Policy 11 Maintain an adequate supply of space appropriate to the needs of incubator industries.

The multimedia and software industry clustered in the SOMA neighborhood is more than 13 years old. The Project would help the City to maintain an adequate supply of space for its multimedia and software industry, which is one of very few industries that currently provides new jobs in the City. Under recent Planning Code revisions, such uses can only use space that has been designated as “office space” by the Planning Department, Planning Commission, and applicable Planning Code provisions.

3. Policies of the Urban Design Element.

OBJECTV. 1, Policy 3 Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

OBJECTV. 2, Policy 6 Respect the character of older development nearby in the design of new buildings.

OBJECTV. 3, Policy 1 Promote harmony in the visual relationships and transitions between new and older buildings.

The Project would respect and preserve the existing character of the district. The existing building, constructed in 1924, will be preserved.

4. Policies of the Transportation Element

Policy 1.6 Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

The Project is compatible with carrying out the City’s “Transit First” policy, and provides adequate parking. Twelve different Municipal Railway (“Muni”) transit lines stop within short walking distance of the Project Site: the 8X, 8AX/BX, 10, 12, 14, 14L, 19, 27, 30, 40, 47, and 76 Muni lines. Caltrain’s San Francisco terminus is five blocks away, at Townsend and Fourth Streets.

The Project Sponsor would provide on-site services to its office tenants to promote and coordinate effective and efficient use of transit. These factors should minimize the need of people using the completed Project to depend on automobile parking facilities.

(C) THE QUALITY OF THE DESIGN OF THE EXISTING BUILDING

The Existing Building has design elements such as cornice work and fenestration that are characteristic of many historic buildings in the SOMA neighborhood. The existing building will be preserved, to maintain the neighborhood character and architecture.

(D) THE SUITABILITY OF THE PROPOSED OFFICE USE FOR ITS LOCATION, AND ANY EFFECTS OF THE OFFICE USE SPECIFIC TO THAT LOCATION.

Despite the recession, there is still high demand for multimedia and software office space in San Francisco. As the financial services and banking sectors slow down, the multimedia and software market remains relatively strong.

The Project Site is ideally located to serve the demand by multimedia and software companies for office space. Approximately 400 multimedia firms employ nearly 50,000 people in the City. The complexity and creativity of multimedia production and software will likely preserve the need of multimedia and software businesses to cluster in the City. Thus, the Project would help the City to retain and attract multimedia and software businesses and thereby provide new jobs.

The Project is also suited for its location because of its proximity to public transit. The Project Site is well served by public transportation. Within one block, stop twelve different Municipal Railway (“Muni”) transit lines: the 8X, 8AX/BX, 10, 12, 14, 14L, 19, 27, 30, 40, 47, and 76 Muni lines. Caltrain’s San Francisco terminus is only five blocks away, at Townsend and Fourth Streets.

1. Location within the MUG Zoning District

The Project would allocate 42,039 gross square feet of office space in the MUG Zoning District. The MUG Zoning District is designed to accommodate office space as well as other commercial uses.

2. Location within the SOMA Neighborhood

SOMA is an important visual landmark for the City. The district contains an extraordinary concentration of warehouses from almost every period of the City’s maritime history, including both the one-story design popular during the latter part of the 19th Century, and the multi-story warehouses that became more common in the early part of the 20th Century. The Project would contribute to the SOMA district by preserving the existing building. As described above, the Project would contribute to the district by harmonizing with the historic warehouses found there.

(E) THE ANTICIPATED USES OF THE OFFICE ALLOCATION, IN LIGHT OF EMPLOYMENT OPPORTUNITIES TO BE PROVIDED, NEEDS OF EXISTING BUSINESSES, AND THE AVAILABLE SUPPLY OF SPACE SUITABLE FOR SUCH ANTICIPATED USES.

Office space at the Existing Building would help the City to retain and attract multimedia and software firms. Despite the current recession, there is still demand for multimedia and software office space in SOMA. The combination of the Project's location and its proximity to public transit would make the building attractive to multimedia and software firms. In addition, retailers and business services surrounding the Project Site would benefit from the increased activity generated by workers using the office space at the Project.

(F) THE EXTENT TO WHICH THE OFFICE SPACE WILL BE OWNED AND OCCUPIED BY A SINGLE ENTITY.

Atlassian Software Development occupies the entire building.

(G) THE USE, IF ANY, OF TDR BY THE PROJECT SPONSOR.

The Project would not use any TDRs.

F. PRIORITY GENERAL PLAN POLICIES FINDINGS

Planning Code Section 101.1 establishes the following eight priority planning policies and requires review of permits for consistency with said policies. The Project and this Section 321 application are consistent with each of these policies as follows:

- 1. THAT EXISTING NEIGHBORHOOD-SERVING RETAIL USES BE PRESERVED AND ENHANCED AND FUTURE OPPORTUNITIES FOR RESIDENT EMPLOYMENT IN AND OWNERSHIP OF SUCH BUSINESSES ENHANCED.**

The Project will not harm neighborhood-serving retail use within the meaning of this policy. The Planning Code limits the term "neighborhood serving business" to Neighborhood Commercial Zoning Districts. (See Plan. Code §790). The Project is located within the MUG Zoning District. Regardless, the Project will provide office jobs, and many of those jobs will be filled by San Francisco residents.

- 2. THAT EXISTING AND NEIGHBORHOOD CHARACTER BE CONSERVED AND PROTECTED IN ORDER TO PRESERVE THE CULTURAL AND ECONOMIC DIVERSITY OF OUR NEIGHBORHOODS.**

The Project will not affect neighborhood character within the meaning of this policy. The existing building and use will be preserved.

- 3. THAT THE CITY'S SUPPLY OF AFFORDABLE HOUSING BE PRESERVED AND ENHANCED.**

The City's supply of affordable housing will not be affected by this Project.

- 4. THAT COMMUTER TRAFFIC NOT IMPEDE MUNI TRANSIT SERVICE OR OVERBURDEN OUR STREETS OR NEIGHBORHOOD PARKING.**

The level of commuter traffic generated by the Project will not impede Muni transit service or overburden our streets or neighborhood parking. The Project Site is well served by public transit and freeways. Within several blocks run twelve different Muni transit lines. Caltrain's San Francisco terminus is five blocks away, at Townsend and Fourth Streets.

- 5. THAT A DIVERSE ECONOMIC BASE BE MAINTAINED BY PROTECTING OUR INDUSTRIAL AND SERVICE SECTORS FROM DISPLACEMENT DUE TO COMMERCIAL OFFICE DEVELOPMENT, AND THAT FUTURE OPPORTUNITIES FOR RESIDENT EMPLOYMENT AND OWNERSHIP IN THESE SECTORS BE ENHANCED.**

The Project will not harm our industrial and service sectors by displacing them with commercial office development. The MUG Zoning District is designed to accommodate offices and other commercial uses. The Project's proposed office use will provide employment opportunities for local residents.

- 6. THAT THE CITY ACHIEVE THE GREATEST POSSIBLE PREPAREDNESS TO PROTECT AGAINST INJURY AND LOSS OF LIFE IN AN EARTHQUAKE.**

The Existing Building will help the City to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake. The Existing Building has been seismically upgraded.

7. THAT LANDMARKS AND HISTORIC BUILDINGS BE PRESERVED.

The Project will not affect the preservation of any landmarks or historic buildings. There are no such structures existing at the Project Site.

8. THAT OUR PARKS AND OPEN SPACE AND THEIR ACCESS TO SUNLIGHT AND VISTAS BE PROTECTED FROM DEVELOPMENT.

The Project will have no effect on our parks or open spaces and their access to sunlight or vistas. The Project will not mar any vistas from any public park or open space.

G. CONCLUSION


The requested office allocation should be granted because:

1. The Project promotes the public welfare, convenience and necessity;
2. The Project satisfies each of the seven criteria to determine public welfare; convenience and necessity provided under Planning Code Section 321; and
3. The Project is consistent with each of the eight General Plan Priority Policies under Planning Code Section 101.1.

Respectfully submitted,
BRUCE CARDINAL/REDBIRD
INVESTMENT GROUP, LLC

By: REUBEN & JUNIUS, LLP,
attorneys for Bruce Cardinal/Redbird
Investment Group, LLC

Dated: August 23, 2012

By: 
David Silverman

LIST OF EXHIBITS

- Exhibit A - Zoning Administrator Letter of Office Legitimization
dated August 5, 2011
- Exhibit B - Photograph of the Existing Building

EXHIBIT A



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Legitimization

August 5, 2011

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 legitimation 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 June 21, 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 legitimation 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.

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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

August 5, 2011
Land Use Legitimization Letter
1098 Harrison Street

- 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
Reuben & Junius
1 Bush Street, Suite 600
San Francisco, CA 94104

August 5, 2011
Land Use Legitimization Letter
1098 Harrison Street

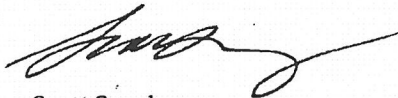
determination is not a project approval, or in any way a substitute for a Building Permit Application for the change of use to office space.

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,

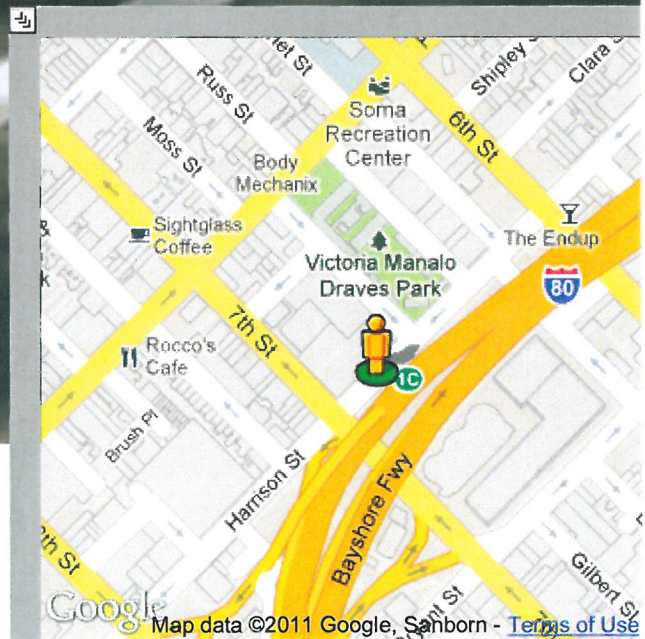
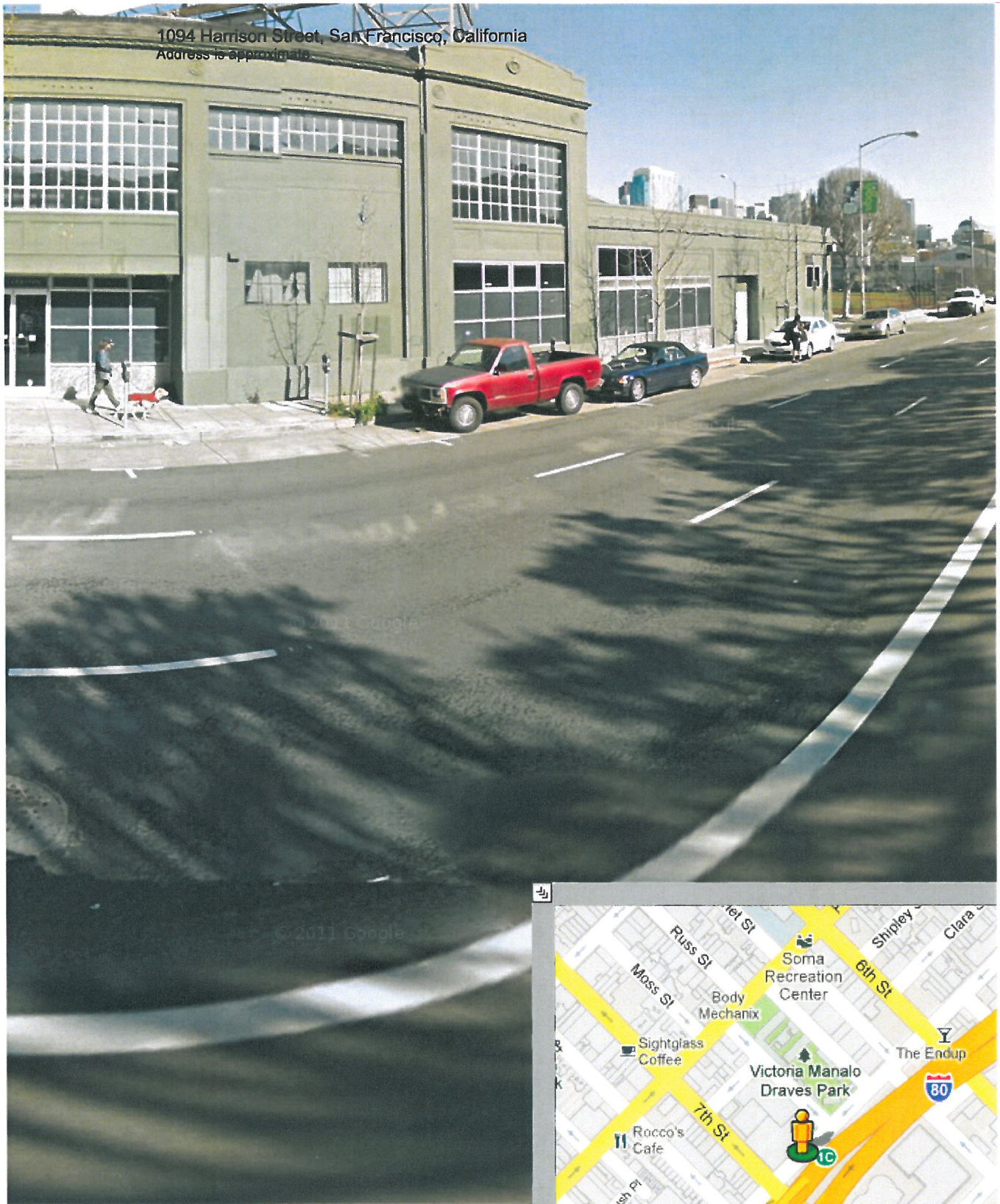


Scott Sanchez
Zoning Administrator

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

DRS: g:\documents\en legitimization\1098 harrison\final letter\1098 harrison en legitimization final.doc

EXHIBIT B



Google