



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Legitimization

September 12, 2017

David Silverman
Reuben, Junius, and Rose
One Bush Street, Suite 600
San Francisco, CA 94104

Site Address: 435 Brannan Street and 322 Ritch Street
Assessor's Block/Lot: 3787/036 & 151
Zoning District: SLI (Service, Light Industrial)/65-X
Staff Contact: Brittany Bendix (415) 575-9114 or brittany.bendix@sfgov.org
Record No.: 10782ZAD

Dear Mr. Silverman:

This letter is in response to the request for a Letter of Legitimization per Planning Code Section 179.1 regarding the properties at 435 Brannan Street and 322 Ritch Street. The two properties are contiguous and under the same ownership, and are therefore treated as a single development lot. Both parcels are located in the SLI (Service) Zoning District and a 68-X Height and Bulk District. The request is to legitimize 24,999 square feet of existing office use within the two existing buildings; 19,767 square feet on the first and second floors of the 32,447 square foot building at 435 Brannan Street and 5,232 square feet on the first and second floors of the 7,320 square foot building at 322 Ritch Street.

Procedural Background

The Department received the initial request for the legitimization of office space at 435 Brannan Street and 322 Ritch Street on August 29, 2012. This request sought legitimization of 36,990 square feet of office use. In an e-mail sent on December 12, 2016, the applicant reduced the requested amount of legitimized office use to 25,190 square feet, and in a second e-mail on March 7, 2017; the applicant further reduced the requested amount to 24,999 square feet. 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 June 14, 2017. 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 August 13, 2017.

Eligibility

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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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

A combination of lease documentation, permit records, photographs and online information indicate that office use existed within Suites 100 in the 435 Brannan Street building, as of August 29, 2012.

- ii. The land use would have been principally permitted or permitted with a 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 SLI Zoning District. Office uses were generally prohibited in the SLI Zoning District; however, a Letter of Determination issued by Robert Passmore on May 9, 1997, determined that multimedia uses may operate under the Business Service use classification. This determination enabled multimedia offices such as Pets.com, to occupy Suite 100 at 435 Brannan Street, on April 8, 1999. A subsequent Letter of Determination issued by Mary Gallagher on October 14, 1999, determined that new multimedia uses must seek an individual letter of determination so that the potential tenant's business practices could be reviewed on a case by case basis.

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

The subject property did not receive any individual letters of determination indicating that there were multimedia/business service uses operating on-site. Additionally, with the Eastern Neighborhoods rezoning, the definition of business service changed to exclude multimedia uses. Therefore, although the business service use is still a principally permitted use classification, the determination that the use may include multimedia as an office type is no long applicable.

- 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;

Lease documentation, permit records, online information and photographs indicate the office uses operated continuously in Suite 100 of the 435 Brannan Street building, for no less than two years prior to January 19, 2009. No other suites meet this criterion.

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

The subject office uses are divided into individual office suites that do not serve as an accessory use to any other uses in the building. This was confirmed for Suite 100 in the 435 Brannan Street building through lease documentation. No other suites 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.

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San Francisco, CA 94104

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435 Brannan Street/322 Ritch Street

Lease documentation, online information, and reverse search directories indicate that Suite 100 has remained occupied during the required period.

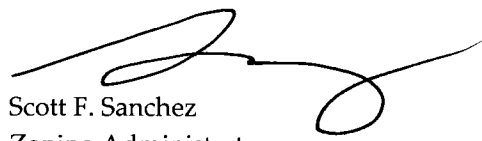
Determination

It is my determination that of the requested units for legitimization totaling approximately 24,999 rentable square feet of office use, only Suite 100 meets all of the required criteria of Planning Code Section 179.1, resulting in a total of approximately 14,000 rentable square feet. This unit is deemed eligible to be legalized as legitimate office space as defined in Planning Code Section 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. The remaining suites in both 435 Brannan Street and 322 Ritch Street 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

cc: Brittany Bendix, Planner
Brannan Ritch Properties, LLC
All Parties on the Notification Request List

REUBEN & JUNIUS_{LLP}

EN LEGITIMIZATION APPLICATION § 179.1

August 29, 2012

By Hand Delivery

Mr. Scott Sanchez
Zoning Administrator
1650 Mission Street, 4th floor
San Francisco, CA 94103

ID #10782 SE
J BANAVES

RECEIVED

CK# 20975 \$ 588 -

20976 \$ 13.

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT

**Re: TechSoup EN Legitimization Application, Planning Code Section 179.1
435 Brannan Street/322 Ritch Street (Block 3787, Lot 151 and 36)
Our File No.: 7286.01**

Dear Mr. Sanchez:

Enclosed please find the application and supporting materials, including two additional copies, for an Eastern Neighborhoods (“EN”) Legitimization request under Planning Code Section 179.1 for the property located at 435 Brannan Street/ 322 Ritch Street (“Property”). We are filing this application on behalf of Brannan Ritch Properties LLC, the owner of the Property.

A. Introduction and Background.

The Property is located near the corner of Brannan Street and Ritch Street, in the SLI zoning district and the Eastern Neighborhood planning area. The Property is improved with a complex consisting of a 2-story, 32,447-square foot building and adjacent 7320 sq. ft. building used as tech office space for a single tenant, Tech Soup. On completion of legitimization, we understand that the office space may be subject to a Section 321 application for office allocation.

The Property is a Class A known Historic Resource built in 1910 and located within the South End Historic District Addition. As such, the Property cannot be demolished and cannot feasibly be used for any other use.

The tenant, TechSoup/CompuMentor, commenced its occupancy of the Property on November 1, 2001 and has continued uninterrupted to the present day. TechSoup occupies the entire Property.

Mr. Scott Sanchez
Zoning Administrator
San Francisco Planning Department
August 29, 2012
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B. Floor Plans, Photographs and Leases.

Floor plans for the Property are attached as **Exhibit A**. Interior and exterior photographs are attached as **Exhibit B**. Leases are attached as **Exhibit C**.

In total, the building comprises approximately 36,990 gross square feet that is the subject of this request for legitimization as office space.

Overall, this Property is an ideal candidate for the EN Legitimization Program as a building that has an extensive and continuous history for business service and office uses, and which is unfit and unlikely for occupancy by any other use, and is entirely appropriate and designed for office use.

C. Evidence Supporting Eligibility.

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

The entire building is currently used and has been used for over 12 years as office use for TechSoup. The existing office use can be verified by visiting the site at any time. TechSoup's lease is attached as **Exhibit C**.

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 EN rezoning, the Property was located in SLI Zoning District, which permitted multimedia/tech office uses for the entire building, under the Planning Department's definition of "Business Services" for multimedia/tech offices in the late 1990s. In addition we have enclosed 14 permits for office use which must be recognized by the City as having created vested rights under the Avco decision (attached).

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

Upon the conclusion of the EN rezoning process, the zoning district classification remained SLI. Office uses are not principally permitted in the SLI zoning district. (Planning Code Section 817). The former "Business Service" designation under which multimedia/tech offices were previously permitted has been deleted from the Planning Code.

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August 29, 2012
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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 current office use has occupied the entire building for at least eleven years, well in excess of the two-year requirement for the EN Legitimization program under §179.1(2)(D)(1).

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

The office use that is being requested for legitimization is not accessory to any other uses, but is the principal use of the Property.

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 Property is not vacant, and has been under continuous, uninterrupted occupancy by TechSoup for office use for more than eleven years. The use has not been discontinued or abandoned within the meaning of Planning Code Section 183.

D. Conclusion.

In addition to the evidence and other information and documents identified above, I have enclosed a check in the amount of \$588.00 made to the order of the Planning Department for the Department's filing fee for this application.

Please do not hesitate to contact me if you have questions or need any additional information.

Very truly yours,

REUBEN & JUNIUS, LLP


David Silverman

Mr. Scott Sanchez
Zoning Administrator
San Francisco Planning Department
August 29, 2012
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Enclosures:

Exhibit A – Floor plans
Exhibit B – Photographs, Exterior and Interior
Exhibit C – TechSoup Lease
Exhibit D – Avco decision
Check for \$588.00 for the Planning Department determination fee

cc: Client