



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- First Source Hiring (Admin. Code)
- Jobs Housing Linkage Program (Sec. 313)
- Child Care Requirement (Sec. 314)
- Downtown Park Fee (Sec. 139)
- Other (Eastern Neighborhoods-Sec. 423 & 426)
- Transit Impact Development Fee (Admin Code)

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 18608 HEARING DATE: MAY 3, 2012

Date: April 16, 2012
Case No.: **2011.0468B**
Project Address: **208 Utah Street, aka 201 Potrero Avenue**
Zoning: PDR-1-G (Production, Distribution, Repair – General)
 40/58-X Height and Bulk District
Block/Lot: 3932/017
Project Sponsor: Adam Chall, TMG Partners
 100 Bush Street, 26th Floor
 San Francisco, CA 94104
Staff Contact: Tara Sullivan – (415) 558-6257
 tara.sullivan@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS APPROVING ALLOCATION OF OFFICE SQUARE FOOTAGE UNDER THE 2011-2012 ANNUAL OFFICE-DEVELOPMENT LIMITATION PROGRAM FOR A PROPOSED PROJECT LOCATED AT 208 UTAH STREET, AKA 201 POTRERO AVENUE, THAT WOULD AUTHORIZE THE CONVERSION OF THE SECOND, THIRD, AND FOURTH FLOORS OF THE EXISTING BUILDING FOR A TOTAL OF 48,732 GROSS SQUARE FEET OF OFFICE USE PURSUANT TO PLANNING CODE SECTIONS 179.1, 321, 322 ON ASSESSOR'S BLOCK 3932, LOT 017, IN THE PDR-1-G (PRODUCTION, DISTRIBUTION, REPAIR - GENERAL) DISTRICT AND WITHIN THE 40/58-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On May 5, 2011, Adam Chall, on behalf of 208 Utah Associates, LLC (hereinafter "Project Sponsor") filed Application No. 2011.0468B (hereinafter "Application") with the Planning Department (hereinafter "Department") for an Office Development Authorization to establish a portion of the existing building at 208 Utah Street, aka 201 Potrero Avenue – specifically, the second, third, and fourth floors – to 48,732 gross square feet of legal office use.

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

On May 3, 2012, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Office Allocation Application No. 2011.0468B.

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. 2011.0468B, 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 subject property is located on the south side of 15th Street and encompasses the entire block between Utah Street and Potrero Avenue in the northeast portion of the Mission neighborhood. Commonly known as 208 Utah Street, the subject building is a four-story warehouse structure that was constructed in 1911, and was identified in the Showplace Square Historic Resource Survey as being eligible as a contributor to the California Register of Historical Resources as a part of the "Showplace Square Heavy Timber and Steel Frame Brick Warehouse Historic District". The building is currently occupied with PDR uses on the ground/first floor and office uses on the second, third, and fourth floors.
3. **Surrounding Properties and Neighborhood.** The project site is located at the northeast corner of the Mission neighborhood, but it is located in an area which transitions from residential to commercial and industrial uses. The immediate neighborhood consists largely of old warehouse structures that have been converted into office and commercial space. The Potrero Hill Shopping Center is located directly across the street and Interstate 280 is one block to the east of the subject property which serves as the border between the Mission, South of Market, and Potrero neighborhoods.
4. **Project Description.** The proposal is to authorize 48,732 gross square feet on the second, third, and fourth floors of the existing building at 208 Utah Street (aka 201 Potrero Avenue) to legal office use. The building currently consists of a combination of Projection, Distribution, and Repair ("PDR") and Office uses. There are no interior or exterior alterations proposed with this application.
5. **Public Comment.** The Department received no public comment on this project.

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

- A. **Legitimization of Office Space.** 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 December 11, 2011 for this Project stating that because office use on the second, third, and fourth floors of the existing building is not permitted under the current Planning Code, and because the project had met all the eligibility requirements of Section 179.1, 48,732 gross square feet is 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, the Jobs-Housing Linkage Fee per Planning Code Sections 179.1(g) and 413, and the Eastern Neighborhoods Community Impact Fee per Planning Code Section 423.

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

- C. **Office Allocation.** 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.

A portion of the existing building has been used as office space for more than a decade. There is currently more than 1.35 million gross square feet of available "Small Cap" office space in the City. Additionally, the Project is subject to various development fees that will benefit the surrounding community. The Project is located in close proximity to many public transportation options, including a number of Muni and transit lines. Therefore, 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 8 below.

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

The proposed office space is within an existing building. The proposed authorization of the office use includes no interior or exterior 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.

- a) Use. *The Project is within the PDR-1-G (Production, Distribution, Repair – General) Zoning District, which does not permit office use. However, the subject site is located in an area of San Francisco that transitions from mixed use development to the north, office and PDR uses to the east, and commercial and residential uses to the south. There are several office use buildings on the subject block and on blocks to the north and east of the Project.*

The Zoning Administrator issued a Letter of Legitimization on December 1, 2011 for 48,732 gross square feet of office use on the second, third, and fourth floors, and thus these portions of the building are eligible to be approved as office space.

- b) Transit Accessibility. *The area is served by a variety of transit options. The Project site is within a quarter-mile of various Muni and SamTrans routes. The 9-San Bruno Muni bus line is located at 15th Street and Potrero Avenue. Multiple Muni bus lines stop at 16th Street and Potrero Avenue including the 9L-San Bruno Limited, 22-Fillmore, and the 33-Stanyan. The SamTrans #292 – Hillside Shopping Center, San Mateo, also stops at 16th Street and Potrero Avenue.*
- c) Open Space Accessibility. *The Project is located one block from Franklin Square.*
- d) Urban Design. *The proposed office space is in an existing structure. The building was constructed in 1911 and was identified in the Showplace Square Historic Resource Survey as being eligible as a contributor to the California Register of Historical Resources as a part of the "Showplace Square Heavy Timber and Steel Frame Brick Warehouse Historic District". It has been minimally altered over the years, remains in good condition, and is an excellent example of the low, industrial character of the built environment in the area.*
- e) Seismic Safety. *The Project does not include any interior or exterior renovations.*

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.

- a) Anticipated Employment Opportunities. *The Project includes a total of 48,723 gross square feet of office space. Based on the Project Sponsor's analysis, the building can employ nearly 275 people at full occupancy, of which 50 are PDR employees and 225 are office employees.*
- b) Needs of Existing Businesses. *The Project will supply office space in the northern Mission area, which limits or prohibits office use, depending on the Zoning District. In contrast to the downtown area, office rents in this area are generally lower and provide valuable space for smaller and/or start-up businesses. Based on the Project Sponsor's analysis, the total office space can employ nearly 275 employees at full occupancy. Since office space is limited in this area, an overconcentration is unlikely, and the area will continue to provide a vibrant mix of uses.*
- c) Availability of Space Suitable for Anticipated Uses.

The project will provide 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 building will not be owner-occupied. The owner will lease the PDR and office space to multiple tenants.

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

The Project does not include any Transfer of Development Rights.

7. **Section 101.1 Priority Policy Findings.** Section 101.1(b)(1-8) establishes Eight Priority Planning Policies and requires review of permits for consistency with said policies.

The Commission finds and determines that the Project is consistent with the eight priority policies, for the reasons set forth below.

- a) That Existing Neighborhood-Serving Retail Uses be Preserved and Enhanced and Future Opportunities for Resident Employment in and Ownership of Such Businesses Enhanced.

The existing building contains no neighborhood-serving retail uses, nor does the proposal include any retail. Additionally, the building is currently leased and has operated as PDR and office space for more than a decade, and these tenants create and sustain a demand for neighborhood-serving retail use in the surrounding neighborhood.

- b) That Existing Housing and Neighborhood Character be Conserved and Protected in Order to Preserve the Cultural and Economic Diversity of Our Neighborhoods.

The Project includes no exterior additions to the existing building and will not remove or add any housing. The Project is located in the northern Mission neighborhood, which limits or prohibits office use, depending on the Zoning District. As such, an overconcentration is unlikely, and the area will continue to provide a vibrant mix of uses.

- c) The City's Supply of Affordable Housing be Preserved and Enhanced.

The development will contribute fees to the Jobs-Housing Linkage Program. Therefore, the Project is consistent with this priority policy.

- d) That Commuter Traffic not Impede Muni Transit Service or Overburden our Streets or Neighborhood Parking.

The area is served by a variety of transit options, including MUNI, BART. It is also near to several streets that are part of the City's growing bicycle network. The existing building has never included any off-street parking, and the proposal includes no new off-street parking spaces. Therefore, the Project should have no significant impact on transit or neighborhood parking.

- 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 Project will continue to provide quality office space that is suitable for a variety of office uses and sizes, which is currently occupied with tenants. Legalizing this office space will help maintain the local resident employment and demand for neighborhood-serving businesses in the area.

- f) That the City Achieve the Greatest Possible Preparedness to Protect Against Injury and Loss of Life in an Earthquake.

The Project will not create any new space that does not meet current seismic safety standards.

- g) That Landmarks and Historic Buildings be Preserved.

The building was constructed in 1911 and was identified in the Showplace Square Historic Resource Survey as being eligible as a contributor to the California Register of Historical Resources as a part of the "Showplace Square Heavy Timber and Steel Frame Brick Warehouse Historic District". Legalizing the subject office space will help keep the historic building viable and well-maintained.

- h) That our Parks and Open Space and their Access to Sunlight and Vistas be Protected from Development.

The proposed Project does not include any exterior additions to the existing buildings, and there will be no impact to parks, open space, access to sunlight, or vista views.

8. **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 which has substantial undesirable consequences that cannot be mitigated.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

OBJECTIVE 2:

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

Policy 1.1:

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

The Project will preserve a building that is a historic resource and that has been used a PDR and office space for over a decade. This authorization of office space will allow the existing office tenants to continue to support the economic vibrancy of the area. Authorization of the office space will also result in the collection of significant development fees that will benefit the community and would not otherwise be required.

MISSION AREA PLAN

Objectives and Policies

OBJECTIVE 1.1:

STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.

OBJECTIVE 1.3:

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

Policy 1.2:

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.

The Zoning Administrator determined that 48,732 gross square feet of office space was eligible for the Eastern Neighborhoods "Legitimization" Program under Planning Code Section 179.1, which was established specifically to address the Objective 1.3 above.

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 finds that granting the Project Authorization in this case would promote the public welfare, convenience and necessity of the City for the reasons set forth above.

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. 2011.0468B** subject to the conditions attached hereto as Exhibit A, which is incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and dated February 13, 2012, on file in Case Docket No. 2011.0468B.

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 May 3, 2012.

Linda D. Avery
Commission Secretary

AYES: Fong, Wu, Moore, Sugaya, Antonini, Miquel, Borden

NAYS:

ABSENT:

ADOPTED: May 3, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for an office allocation to establish 48,732 gross square feet on the second, third, and fourth floors to legal office use at 208 Utah Street, aka 201 Potrero Avenue, located at Block 3932, Lot 017, pursuant to Planning Code Section(s) 179.1, 321, and 322 within the PDR-1-G District and a 40/58-X Height and Bulk District; in general conformance with plans, dated February 13, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2011.0468B and subject to conditions of approval reviewed and approved by the Commission on May 3, 2012 under Motion No 18608. 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 May 3, 2012 under Motion No 18608.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18608 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 Conditional Use 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

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 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

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

Development Timeline - Office. Pursuant to Planning Code Section 321(d) (2), construction of an office development shall commence within 18 months of the date of this Motion approving this Project becomes effective. This office authorization establishes 48,732 legal gross square feet on the second, third, and fourth floors which is existing and has been determined by the Zoning Administrator to be eligible for the Eastern Neighborhoods "Legitimization" Program under Planning Code Section 179.1. The project sponsor must file a building permit with the Department of Building Inspection within 18 months from the date this Motion becomes effective. Failure to file a permit within that period or to carry out the authorization diligently thereafter to completion, shall be grounds to revoke approval of the office development under this Office Allocation Authorization.

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

PROVISIONS

Transit Impact Development Fee. Pursuant to Planning Code Sections 411 (formerly Chapter 38 of the Administrative Code) and 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. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.

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

Jobs Housing Linkage. Pursuant to Planning Code Sections 413 (formerly 313) and 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.sfplanning.org

MONITORING - AFTER ENTITLEMENT

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.sfplanning.org

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.sfplanning.org

OPERATION

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>

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.sfplanning.org