



# SAN FRANCISCO PLANNING DEPARTMENT

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*Subject to: (Select only if applicable)*

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|---|---|
| <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 checked="" 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 Motion No. 18950

HEARING DATE: AUGUST 15, 2013

*Date:* August 8, 2013  
*Case No.:* **2013.0585B**  
*Project Address:* **999 BRANNAN STREET**  
*Zoning:* PDR-1-G (Production, Distribution and Repair: General)  
40-X Height and Bulk District  
*Block/Lot:* 3782/003  
*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](mailto:diego.sanchez@sfgov.org)

**ADOPTING FINDINGS APPROVING ALLOCATION OF OFFICE SQUARE FOOTAGE UNDER THE 2013 – 2014 ANNUAL OFFICE DEVELOPMENT LIMITATION PROGRAM FOR A PROPOSED PROJECT LOCATED AT 999 BRANNAN STREET THAT WOULD AUTHORIZE THE CONVERSION OF 143,292 GROSS SQUARE FEET OF OFFICE USE PURSUANT TO PLANNING CODE SECTIONS 179.1, 321 AND 322 ON LOT 003 OF ASSESSOR'S BLOCK 3782 IN THE PDR-1-G (PRODUCTION, DISTRIBUTION AND REPAIR: GENERAL) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On May 9, 2013 David Silverman (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for an Office Development Authorization to establish 143,292 gross square feet of office use at 999 Brannan Street, within the PDR-1-G (Production, Distribution and Repair: General) Zoning District and a 40-X Height and Bulk District.

On August 15, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Office Allocation Application No. 2013.0585B.

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. 2013.0585B, 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 southeast corner of 9<sup>th</sup> and Brannan Streets, and is Lot 003 in Assessor's Block 3782. The lot is irregularly shaped, with 278 feet of frontage along Brannan Street, 169 feet of frontage along 9<sup>th</sup> Street and 120 feet of frontage along Division Street. The lot is improved with a three story building constructed in 1986. The building covers approximately 98% of the lot and is currently used by Dolby Laboratories, Inc.
3. **Surrounding Properties and Neighborhood.** The project site is located within the Showplace Square neighborhood, in proximity to numerous other buildings of similar scale to the subject property. Immediately to the south and east of the site is Interstate 80 and open parking lots underneath the Interstate. To the north of the site is a two-story commercial center known as 555 Ninth Street, where retailers such as Trader Joes, Nordstrom Rack and Pier 1 Imports are located. To the west of the site is a one-story building where a personal service use is located (dba Fitness SF). The uses in the area are a mixture of retail, personal service, arts activity, public and automotive uses. The surrounding properties are located within the P (Public Use), UMU (Urban Mixed Use) and PDR-1-G (Production, Distribution and Repair: General) Zoning Districts.
4. **Project Description.** The proposal is to establish 143,292 gross square feet of office use within an existing three-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 June 28, 2013 for this project stating that the project had met all the eligibility requirements of Section 179.1, and the requested 143,292 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, the Jobs-Housing Linkage Fee per Planning Code Sections 179.1(g) and 413 and is required to satisfy the Child Care Requirements for Office Development under Planning Code Section 414.

*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. In addition, the Project Sponsor has elected to pay an in-lieu fee to the Development Fee Collection Unit at the Department of Building Inspection to satisfy the Child Care Requirement.*

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.

*There is approximately 2.2 million gross square feet of available "Large Cap" office space in the City at this time. The subject property has a history of office use since 2002. The first and second floors of the three-story subject property have been used as office space since 2002 and the third floor since 2007. The subject property is located in an area rich in land use diversity, including, retail, personal service, arts uses and public uses. The proposed office allocation will help maintain the diversity of uses and 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 2002 without complaint to the Planning Department Code Enforcement division regarding incompatibilities to the existing, surrounding uses. The legitimization of the office use will not create any new, adverse impacts in the area. The site is located within the thriving Showplace Square neighborhood, a location that is home to many technological and multimedia industry firms, as well as design related firms that utilize office space for their operations. The project would complement those sectors and add potential firm locations in the future.*

### 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 proposed office use will complement the existing commercial uses in the area as the Showplace Square neighborhood is an area where numerous firms within the technology/multimedia industry locate. Demand exists for office space that can be used by firms within that sector and other sectors that utilize office space for operations. The occupancy of such office space has beneficial effects upon existing retail and personal service uses located within the area as it provides potential patrons.*

### 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. Dolby Laboratories, Inc.).*

### 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 370 individuals will remain in San Francisco utilizing a building that has been used as an office since 2002. 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 370 individuals and this signals to the greater business community that an attractive environment exists in San Francisco and the Showplace Square neighborhood in which to conduct commerce.*

## SHOWPLACE SQUARE / POTRERO PLAN AREA

### Objectives and Policies

#### OBJECTIVE 1.3:

INSTITUTE FLEXIBLE "LEGAL NONCONFORMING USE" PROVISIONS TO ENSURE A CONTINUED MIX OF USES IN SHOWPLACE SQUARE / POTRERO.

#### Policy 1.3.3:

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 proposed office allocation through the Eastern Neighborhoods Legitimization process is an opportunity for the subject use to establish a legal presence. The subject property was located in an industrial zoning district (M-2, Heavy Industrial) and an office use is no longer permitted within the current zoning district (PDR-1-G, Production, Distribution and Repair: General).*

**OBJECTIVE 1.4:**

SUPPORT A ROLE FOR "KNOWLEDGE SECTOR" BUSINESSES IN APPROPRIATE PORTIONS OF SHOWPLACE SQUARE/POTRERO HILL.

**Policy 1.4.2:**

Allow Knowledge Sector office-type uses in portions of Showplace Square/Potrero Hill where it is appropriate.

*The requested allocation and legitimization will continue an existing Knowledge Sector office-type use that has been in place since 2002. There have been no complaints made to the Planning Department's Code Enforcement Division, indicating that the use does not generate adverse effects upon the surrounding neighborhood.*

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 2002 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 2002.*

- 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 three-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. 2013.0585B** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 26, 2010 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 August 15, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Commissioners Moore, Fong, Wu, Sugaya, and Antonini,

NAYES:

ABSENT: Commissioners Hillis, Borden

ADOPTED: August 15, 2013

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for an office allocation to establish 143,292 gross square feet of office use in the existing building, located at Lot 003 in Assessor's Block 3782, pursuant to Planning Code Section(s) 179.1, 321, and 322 within the PDR-1-G (Production, Distribution and Repair: General) Zoning District and a 40-X Height and Bulk District; in general conformance with plans, dated April 26, 2010, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0585B and subject to conditions of approval reviewed and approved by the Commission on August 15, 2013 under Motion No. **18950**. 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 **August 15, 2013** under Motion No. **18950**.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18950** 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.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

3. **Diligent pursuit.** 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. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

6. **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](http://www.sf-planning.org)*

## **PROVISIONS**

7. **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](http://www.sf-planning.org)*

8. **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](http://www.sf-planning.org)*

9. **Childcare Requirements for Office and Hotel Development Projects.** Pursuant to Section 414 (formerly 314), the Project Sponsor shall pay the in-lieu fee as required. The net addition of gross floor area subject to the fee shall be determined 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](http://www.sf-planning.org)*

## **MONITORING**

10. **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](http://www.sf-planning.org)*

11. **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](http://www.sf-planning.org)*

## **OPERATION**

12. **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](http://www.sf-planning.org)*