



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Conditional Use

HEARING DATE: AUGUST 15, 2013  
CONSENT CALENDAR

*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)  
*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 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.

### SITE DESCRIPTION AND PRESENT USE

The project is located on the southeast corner of 9th 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 9th 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.

### 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.

## 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	July 26, 2013	July 26, 2013	20 days
Posted Notice	20 days	July 26, 2013	July 26, 2013	20 days
Mailed Notice	N/A	N/A	July 26, 2013	20 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the office allocation 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 219 that now prohibit office uses 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	\$286,584.00
Jobs – Housing Linkage Fee	\$1,217,982.00
Child Care Requirement In-Lieu Fee	\$159,054.12
<b>TOTAL</b>	<b>\$1,663,620.12</b>

- There is currently 2.2 million square feet of Large 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 143,292 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 6.48% of the large 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 \$1,663,620 in fees that will benefit the City of San Francisco.
- The Project is consistent with the Planning Code, the Showplace Square/Potrero Area Plan and the General Plan.

<b>RECOMMENDATION:</b> <b>Approval with Conditions</b>
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### **Attachments:**

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

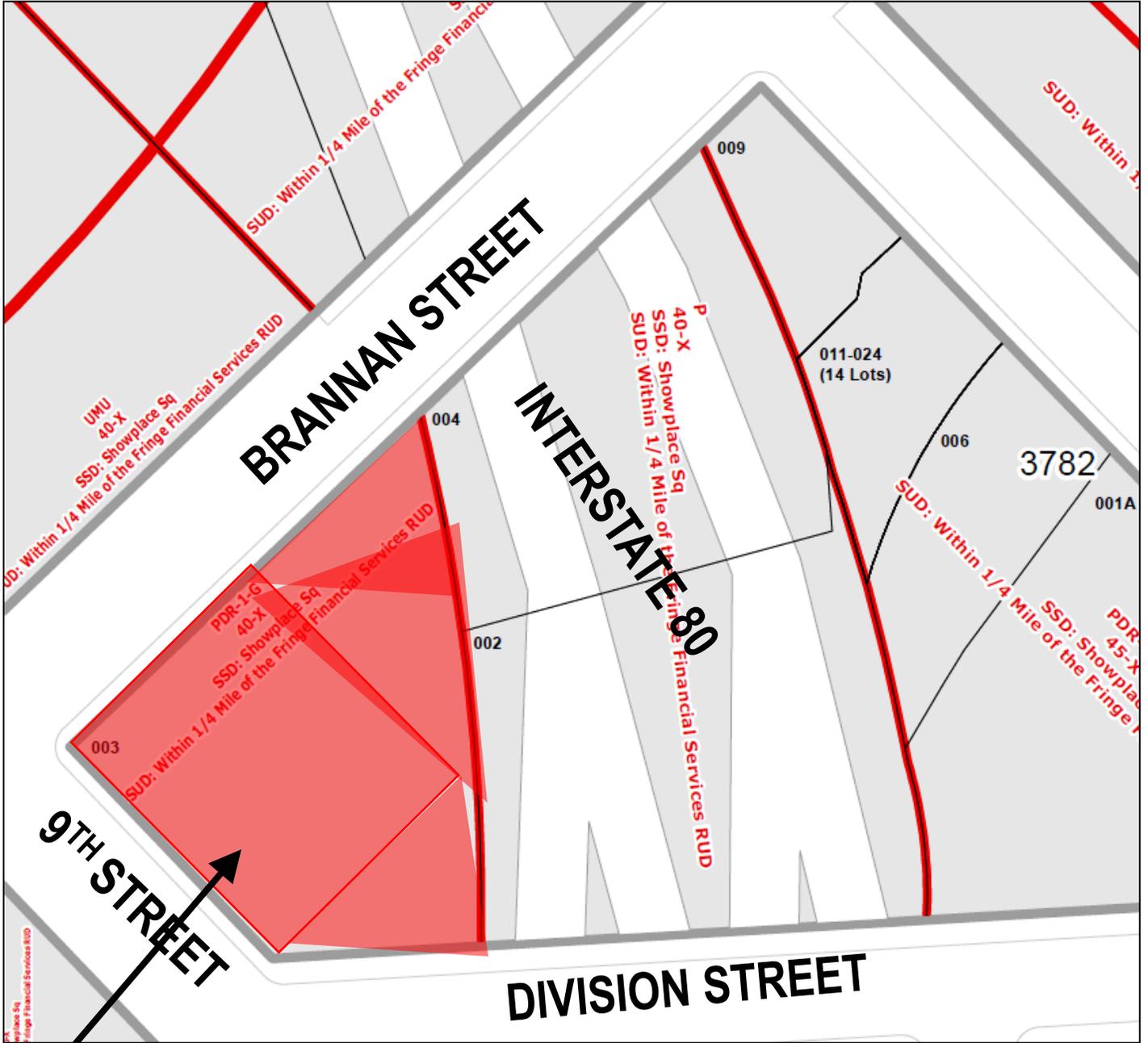
Attachment Checklist

- |   |  |
|---|--|
| <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          | 3-D Renderings (new construction or significant addition)                                  |
| <input checked="" type="checkbox"/> Sanborn Map         | <input type="checkbox"/> Check for legibility  |
| <input checked="" type="checkbox"/> Aerial Photo        | <input type="checkbox"/> Wireless Telecommunications Materials                             |
| <input checked="" type="checkbox"/> Context Photos      | <input type="checkbox"/> Health Dept. review of RF levels                                  |
| <input checked="" type="checkbox"/> Site Photos         | <input type="checkbox"/> RF Report   |
|   | <input type="checkbox"/> Community Meeting Notice  |
|   | <input type="checkbox"/> Housing Documents   |
|   | <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



9TH STREET

SUBJECT PROPERTY

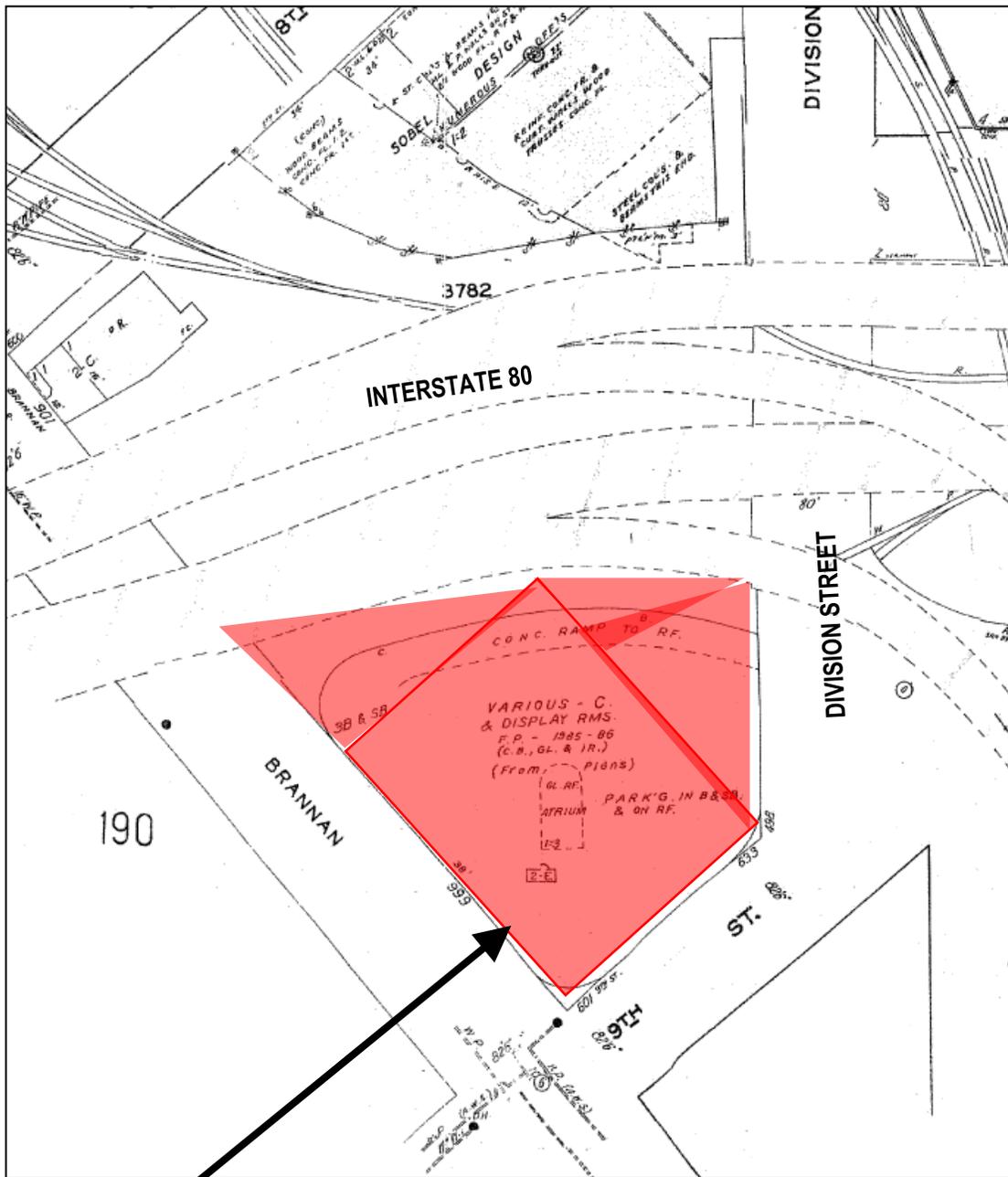
DIVISION STREET

BRANNAN STREET

INTERSTATE 80



# 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 2013.0585B  
999 Brannan Street

# Aerial Photo

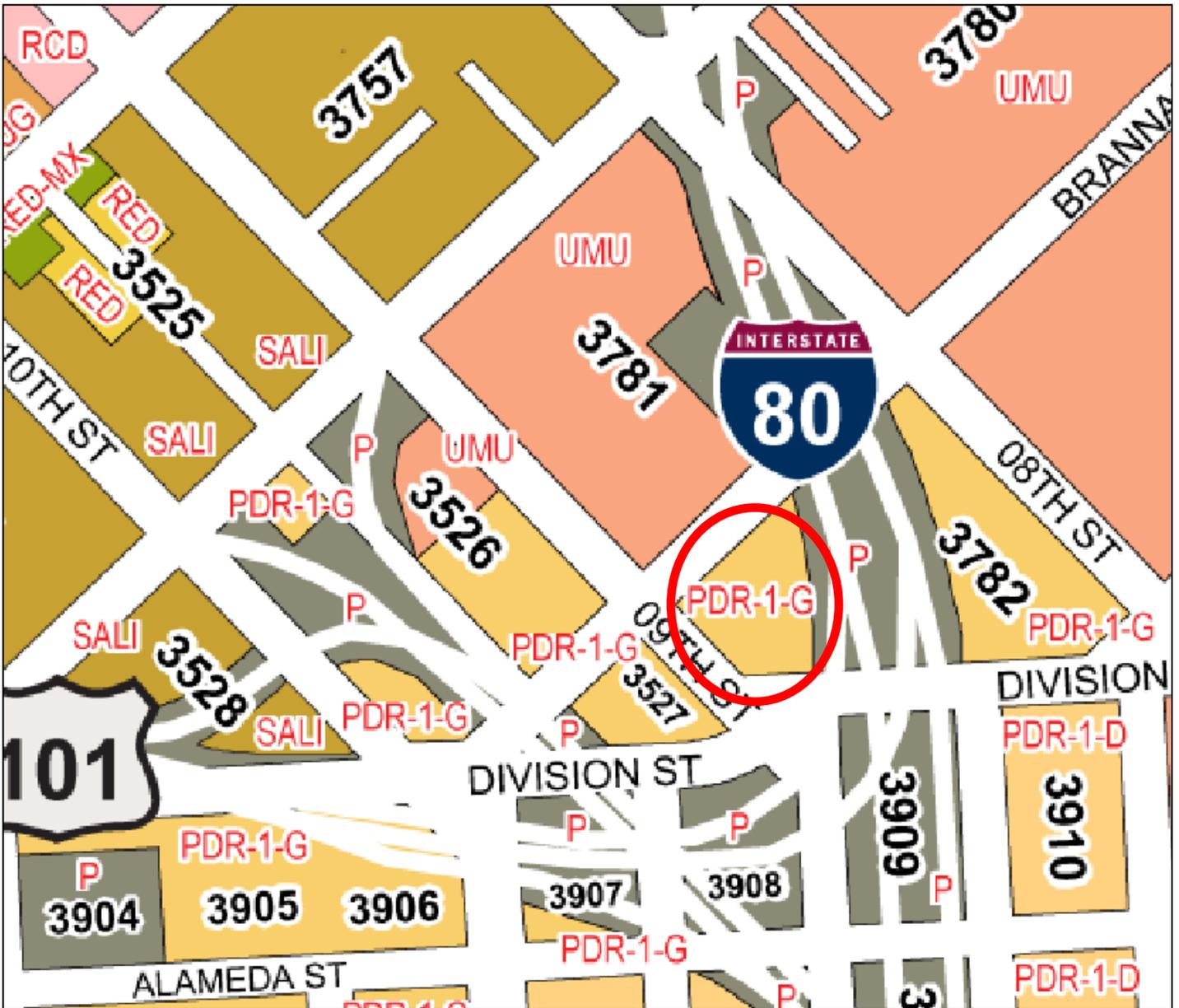


SUBJECT PROPERTY



Office Allocation  
Case Number 2013.0585B  
999 Brannan Street

# Zoning Map



Office Allocation  
Case Number 2013.0585B  
999 Brannan Street

# Site Photo



Office Allocation  
Case Number 2013.0585B  
999 Brannan Street



# 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 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 Draft Motion

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**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:

NAYS:

ABSENT:

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 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 **August 15, 2013** 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.** 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)*

**Before the  
San Francisco Planning Commission**

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

**(PLANNING CODE SECTION 321)**

**FOR**

**EXISTING BUILDING IN POSSESSION OF  
ZONING ADMINISTRATOR LETTER OF DETERMINATION  
FOR LEGITIMIZATION OF EXISTING USE**

**at**

**999 Brannan Street  
(Assessor's Block 3782/Lot 003)**

**Planning Department Case No.: 2013.0585B**

**Hearing Date: August 15, 2013**

*Attorneys for Project Sponsor:*

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**REUBEN, JUNIUS & ROSE, LLP**

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

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**A. INTRODUCTION**

Dolby Properties, LLC (“Owner”) and Dolby Laboratories, Inc. (“Dolby”) seek an office allocation from the annual limit from the Planning Commission under Planning Code Section 321 for 143,292 gross square feet at 999 Brannan Street (“Existing Building”). The Zoning Administrator issued a Letter of Legitimization on June 28, 2013 for this existing office space at the Existing Building pursuant to Planning Code Section 179.1 (**Exhibit A**). The Existing Building has been fully occupied by Dolby as office space since 1998.

**B. SITE INFORMATION**

<b>Street Address:</b>	999 Brannan Street
<b>Cross Streets:</b>	8 <sup>th</sup> and 9 <sup>th</sup> Streets
<b>Assessor's Block/Lot:</b>	3782/003
<b>Zoning District:</b>	PDR-1-G (Production, Distribution and Repair-General)
<b>Height/Bulk District:</b>	40-X
<b>Lot Area:</b>	43,200 sq. ft.
<b>Floors:</b>	Three
<b>Building Area:</b>	143,292 sq. ft.

**C. EXISTING SITE CONDITIONS**

Dolby Properties, LLC owns the Existing Building, which is used by Dolby Laboratories, Inc. The Existing Building lies in the block bounded by Brannan Street, 9<sup>th</sup> Street, and 8<sup>th</sup> Street, adjacent to the Central Freeway. The Existing Building has been occupied continuously by Dolby, a major employer in San Francisco of long standing, for office use from 1998 to the present. The prior zoning for the Project, M-2 (Heavy Industrial), permitted such office use.

The Existing Building is situated within the newly adopted (in 2008) PDR-1-G (Production, Distribution and Repair-General) Zoning District and the Eastern Neighborhood Plan Area.

**D. PROPOSED ACTION**

Dolby seeks authorization under Planning Code Section 321 to allocate 143,292 gross square feet of office space from the reserve for the current office approval period, or from any unallocated carryover from a prior approval period, as defined by Planning Code Sections 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 requested 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.**

Dolby proposes to allocate 143,292 gross square feet of office space to the City's office stock, meeting a need for such use adjacent to SOMA and the UCSF Mission Bay Campus. By retaining office workers in the neighborhood, the Existing Building will also continue to ensure the viability of nearby retailers, restaurants and business services.

The economic benefits from the Existing Building to the City are supplemented by the office allocation's compatibility with other public goals. Owner would mitigate any effect on the City's supply of affordable housing by paying \$1,217,982 (\$8.50/sq. ft.) in mitigation fees to the City, pursuant to Planning Code Section 179.1(g)(1)(B), for the Jobs-Housing Linkage Program. The allocation is also designed to minimize any impact on the City's transportation systems. The Existing Building has excellent access to public transit. Owner would also pay \$286,584 (\$2.00/gross sq. ft) to the City for the City's Transit Impact Development Fund, to mitigate costs incurred by Muni in meeting peak-period public transit demand pursuant to Planning Code Section 179.1(g)(1)(A). Owner would also contribute \$151,889.52 (\$1.06/gross sq. ft.) to the City for the child care fund. Accordingly, the office allocation will produce \$1,656,455.50 in fees that will benefit the community and the City.

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

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

The requested allocation would accommodate the demand by existing and future multimedia and software firms for office space, thus helping the City to retain these firms and the jobs that they provide.

The allocation is compatible with the City's "Transit First" policy. Seven different Municipal Railway ("Muni") transit lines stop within short walking distance of the Project Site: 9L, 9, 22, 27, 33, 47, and 90 Muni lines. Caltrain's San Francisco terminus is only four blocks away, at Townsend and Fourth Streets. These factors minimize the need of people using the Existing Building to depend on automobile parking facilities. The location of the Existing Building is at the eastern edge of the Mission area, adjacent to SOMA and the UCSF Mission Bay Campus.

**1. 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 Existing Building currently provides office space in an area of the City where Dolby has maintained its offices for 15 years. The Project Site is very well served by public transit lines. Therefore, the allocation 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 requested allocation would help the City to accommodate the demand by existing and future multimedia and software firms for office space. The complexity and creativity of multimedia and sound technology uses will likely preserve the need of multimedia-related businesses to cluster in the City, where they can interact with one another and find a pool of highly qualified employees and collaborators. Thus, the

allocation would help the City to retain existing and future multimedia and software firms and the jobs they provide.

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

The allocation would help the City to maintain an adequate supply of space for its multimedia and software industry, which is one of only a few industries that currently are source of new jobs in the City.

**2. 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 allocation will advance the City’s “Transit First” policy. Seven different Municipal Railway (“Muni”) transit lines stop within short walking distance of the Existing Building. Caltrain’s San Francisco terminus is only four blocks away, at Townsend and Fourth Streets.

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

The Existing Building has modern design elements that contribute to the neighborhood, which includes a variety of design styles. The Existing Building will be unchanged. No construction is proposed.

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

There is 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 remain strong. The Existing Building is ideally located and would accommodate the demand for space by multimedia and software firms, thereby continuing to provide jobs for local residents.

**1. Location**

The SoMa district is the center of the multimedia and tech industry in San Francisco, and has been since the early 1990’s. The recent construction of the UCSF Mission Bay facilities complements the existing multimedia and tech uses in the area.

**(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.**

There is strong demand for multimedia and software office space in the area. Retailers and business services surrounding the Existing Building will benefit from the activity generated by multimedia and software firms using the office space at the Existing Building.

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

Dolby occupies the entire building. The prior zoning was M-2, which permitted Dolby's office use of the Existing Building from the beginning of Dolby's occupancy.

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

The Existing Building 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 Existing Building 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 Existing Building provides office jobs for local residents.

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

The allocation 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.**

Owner will provide \$1,217,982 to the City for affordable housing in connection with this allocation.

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

The level of commuter traffic generated by the Existing Building does not impede Muni transit service or overburden our streets or neighborhood parking. The Existing Building is well served by public transit and freeways. Within several blocks run seven different Muni transit lines. Caltrain's San Francisco terminus is only four 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 allocation will not harm our industrial and service sectors by displacing them. Office use provides 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.

**7. THAT LANDMARKS AND HISTORIC BUILDINGS BE PRESERVED.**

No landmarks or historic buildings will be affected.

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

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

**G. CONCLUSION**

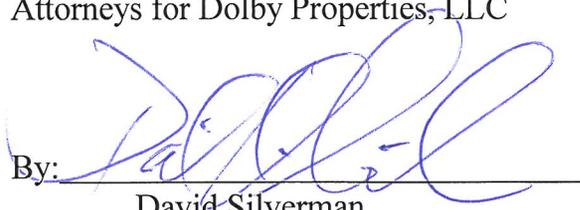
We respectfully request that the Planning Commission grant the requested office allocation for Dolby because:

1. The allocation promotes the public welfare, convenience and necessity;
2. The allocation satisfies each of the seven criteria to determine public welfare; convenience and necessity provided under Planning Code Section 321;
3. The allocation is consistent with each of the eight General Plan Priority Policies under Planning Code Section 101.1; and
4. The Owner will provide \$1,217,982 to the City for affordable housing in connection with the approval of the allocation.

Respectfully submitted,

REUBEN, JUNIUS & ROSE, LLP  
Attorneys for Dolby Properties, LLC

Dated: 7-17-2013

By: 

David Silverman

**LIST OF EXHIBITS**

- Exhibit A - Zoning Administrator Letter of Office Legitimization dated June 28, 2013
- Exhibit B - As Built Plans
- Exhibit C - Photograph of 999 Brannan Street Site and Block

**EXHIBIT A**



# SAN FRANCISCO PLANNING DEPARTMENT

## Letter of Legitimization

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

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

Dear Mr. Silverman:

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

### Procedural Background

The Department received the request for legitimization of office space at 999 Brannan Street on October 18, 2011. Staff reviewed the request and associated materials and the Zoning Administrator issued a 30-day public notice of the intent to issue the Letter of Legitimization on March 29, 2013. The public notice also included a draft letter for review, and was sent to 1) all owners of property within 300 feet of the subject property, 2) all current tenants of the subject property, and 3) all individuals and neighborhood associations that had requested to receive such notice. Additionally, notice was posted on the site during the notification period. The notification period expired on April 29, 2013.

### Eligibility

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

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

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

- o *Lease, effective October 1, 2003, and subsequent First Amendment to Lease, indicating a total of 143,292 square feet leased for office use. The 143,292 square feet area remains in use as office space.*
- ii. The land use would have been principally permitted or permitted with Conditional Use authorization under provisions of the Planning Code that were effective on April 17, 2008;

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

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

June 28, 2013  
Letter of Legitimization  
999 Brannan Street

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

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

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

- iv. The land use either has been (1) regularly operating or functioning on a continuous basis for no less than 2 years prior to the effective date of Planning Code Section 179.1, or (2) functioning in the space since at least April 17, 2008, and is associated with an organization, entity or enterprise which has been located in this space on a continuous basis for no less than 2 years prior to the effective date of Planning Code Section 179.1;

*The following documentation indicates the office use has been regularly operating for no less than 2 years prior to January 19, 2009:*

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

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

*The office use occupies the entire building and as such is the principal use of the building and not accessory to any other use.*

- vi. The land use is not discontinued and abandoned pursuant to the provisions of Planning Code Section 183 that would otherwise apply to nonconforming uses.

*The subject property is presently occupied and is in continual use by the office tenant identified in the aforementioned First Amendment to Lease Agreement. There has been no discontinuance or abandonment of any office use.*

## **Determination**

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

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

June 28, 2013  
Letter of Legitimization  
999 Brannan Street

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

If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of the Letter of Legitimization. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

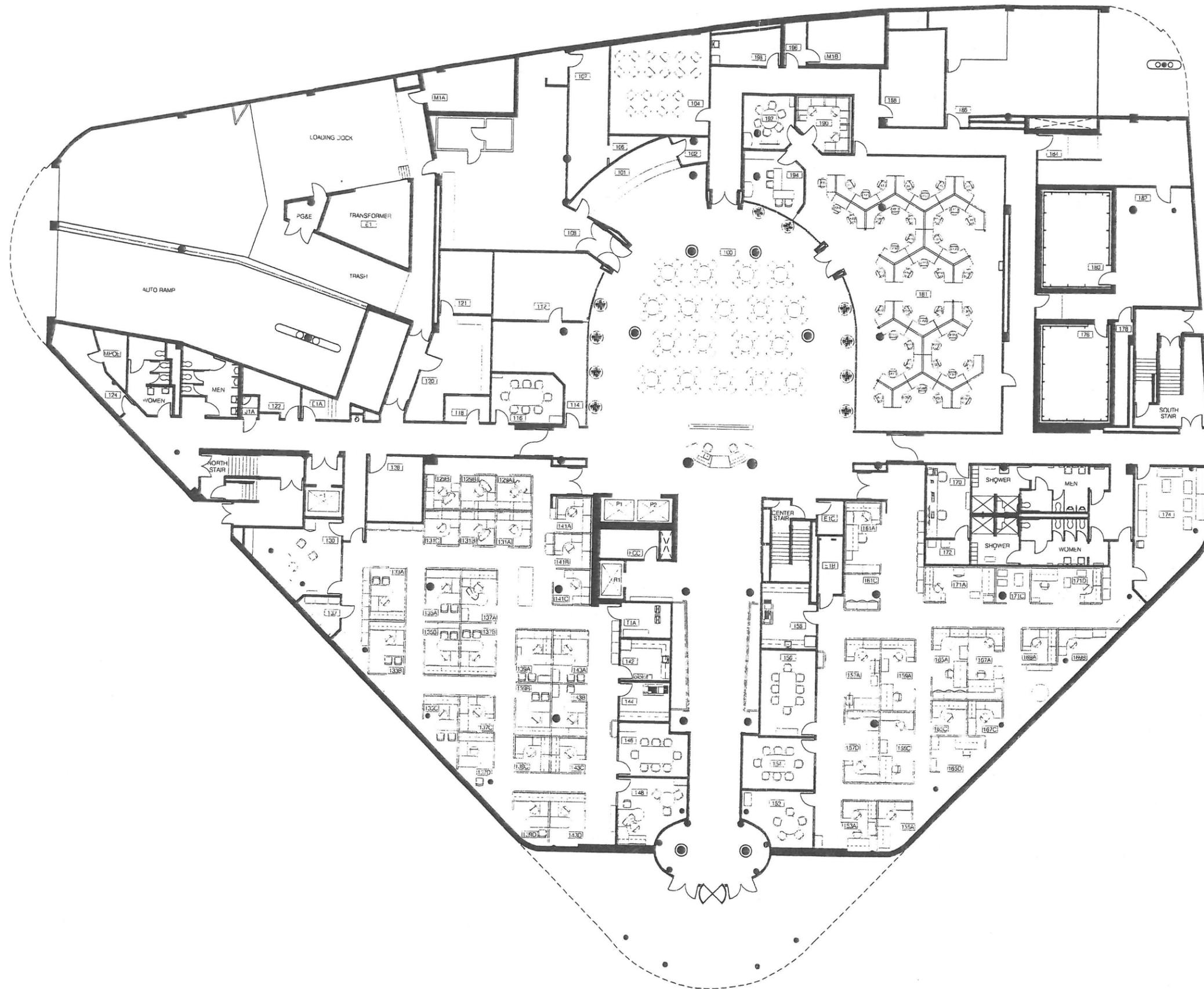


Scott Sanchez  
Zoning Administrator

cc: Diego R Sánchez, Planner  
Steve Wertheim, Planner  
Planning Commissioners  
All Parties on the Notification Request List

*DRS g:\documents\en legitimization\999 brannan\999 brannan en legitimization.doc*

## EXHIBIT B



1ST. FLOOR

Drawing Title

999 BRANNAN

999 BRANNAN  
SAN FRANCISCO, CA.

Project

Job No: 04-26-10

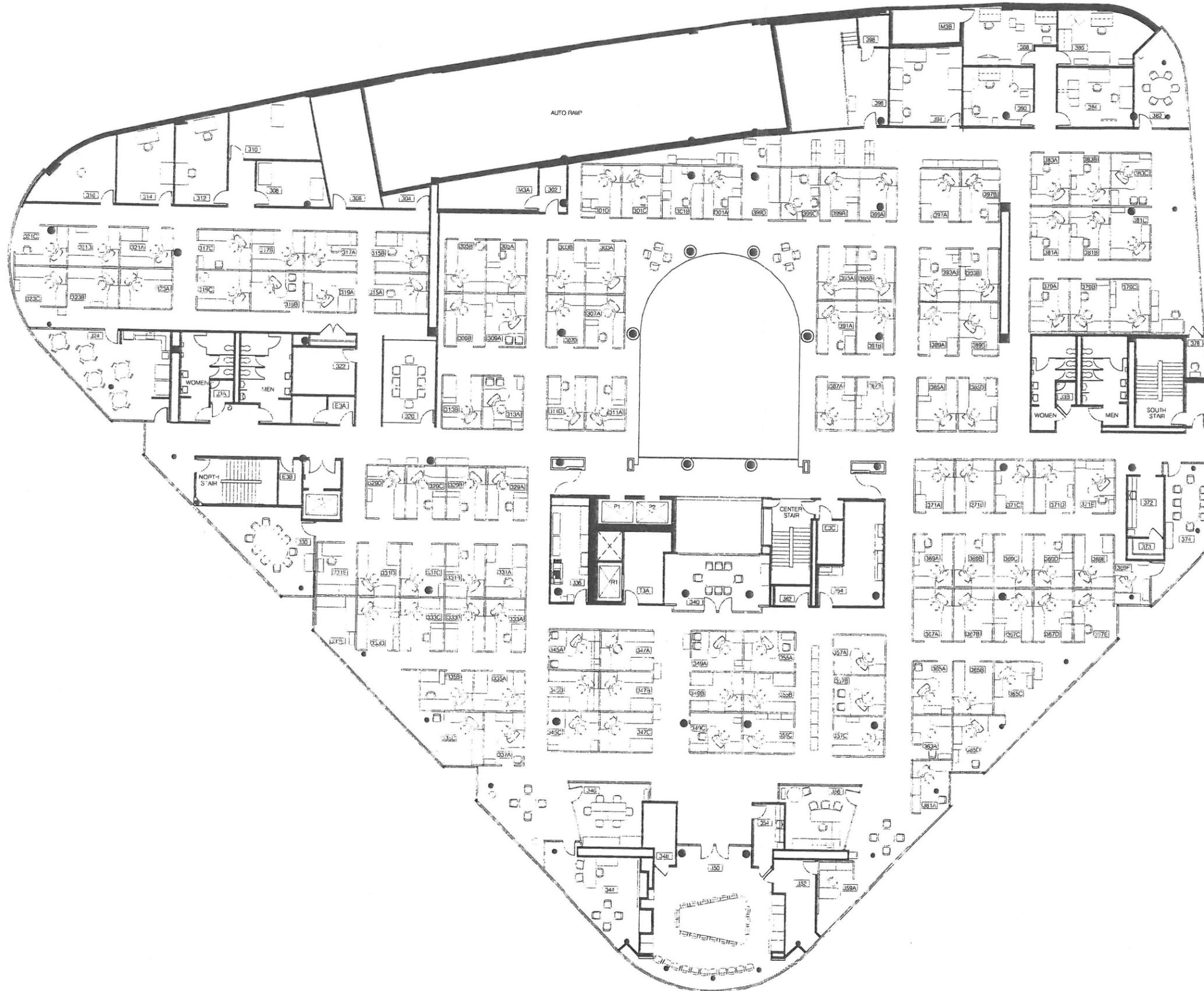
Date:

Ref: 3/32"=1'0"

Scale:

Dwg. No: **A.01**





**3RD. FLOOR**

Drawing Title

**999 BRANNAN**

**999 BRANNAN  
SAN FRANCISCO, CA.**  
Project

Job No: 04-19-10

Date:

Ref: 3/32"=1'0"

Scale:

Dwg. No: **A.03**

**EXHIBIT C**



East

Brannan Street

DOLBY

West



West

Brannan Street

East



South

9th Street

North



North

9th Street

DOLBY

South