



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

October 23, 2009

Walter Wang
W5 Brannan, LP
651 Brannan Street, Suite 100
San Francisco CA 94107

**RE: 651 Brannan Street
Block: 3785 Lot: 009**

Dear Mr. Wang:

This letter is in response to your request for a letter of determination regarding the property at 651 Brannan Street. This parcel is located in the SLI (Service/Light Industrial) District with a 50-X height and bulk limitation. The request is to determine if all four floors of the existing building are legal nonconforming office use.

This issue was first addressed by Zoning Administrator Bob Passmore in a Letter of Determination dated October 12, 1990. That letter determined that only the third and fourth floors of the subject building were legal nonconforming office use, and that any future conversion of the first and second floors to office may be subject to additional parking requirements, environmental review, and the annual office limit procedures. Your request states that you and Robert Meyers met with Mr. Passmore and Max Putra in 1995 and that you contended that all four floors of the subject building were legal nonconforming office use. You also state that Mr. Passmore agreed with your claim and instructed Mr. Putra to approve a Building Permit Application (BPA No. 9600588) for restriping the basement level garage to add the required additional parking, which "memorialized" the determination that all four floors were legal nonconforming office use.

It is common practice that a new or supplemental Letter of Determination is issued by the Zoning Administrator if a new determination is made that alters a previous letter. Unfortunately, no such letter was ever issued. However, the following historical documents support your claims:

- A project review application from April 25, 1995, to "confirm that the building has four legal floors for office occupancy."
- Staff notes from a November 14, 1995, meeting with Bob Passmore that indicate the Department agreed there were 4 floors of legal nonconforming office space and would direct the sponsor to file a building permit application for the record.

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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- Parking analysis that indicates that 62 parking spaces were required, considering the legal parking deficit, to have four floor of office space in the subject building.
- Building Permit No. 9600588 approved by the Planning Department on January 17, 1996. While the scope of work only included restriping of the basement level parking to add 62 spaces, the staff note in the signature box states that the parking was to comply with "the existing 4 floors of office use." The note also says to "See Files," which document the discussion and determination regarding the office use on the first and second floor of the building. There is also, a staff note on a copy of the permit states that the approval was "O.K. per RWP." Additionally, the timing of the permit—approximately two months after the meeting with Bob Passmore—and the correct amount of spaces (62) further link this permit to the intent to document that all four floors were legal nonconforming office space.

It is my determination that all four floors of 651 Brannan Street are existing, legal nonconforming office use, and are subject to Planning Code controls for nonconforming uses in Article 1.7. This determination does not trigger additional environmental review or office allocation review per Planning Code Section 320 et seq.

I appreciate your help in resolving this matter. As memories fade and records become difficult to find, your help in resolving this matter was invaluable.

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 this letter. 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,



Lawrence B. Badiner
Zoning Administrator

cc: Corey Teague, Planner
Julian Banales, SE Quadrant Team Leader

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