



SAN FRANCISCO PLANNING DEPARTMENT

August 22, 2007

Mr. James A. Reuben
Reuben & Junius, LLP
One Bush Street, Suite 600
San Francisco, CA 94104

Re: Request for Written Determination pursuant to Planning Code §307 (a)
Property Address: 1828 Egbert Avenue
Assessor's Block/Lot: 5434B/Lot 005
Zoning District: M-1 (Light Industrial)

Dear Mr. Reuben:

By letter dated May 11, 2007, you requested a determination that the legal use of the Property is a telecommunications switch facility, also known as internet services exchange as defined by Planning Code Section 209.6(c), and that the interim use of self-storage use of 1828 Egbert Avenue is not and will not be deemed an abandonment of the telecommunications/internet service exchange use.

After review of the information provided in your correspondence, and based upon the fact that the owner's use of the property for self-storage has been for approximately two years and was and is intended as a temporary, interim use until it could find a telecommunications/internet services exchange tenant, this will confirm that the telecommunications/internet services exchange use has not been and will not be considered to be abandoned. This determination is based on the following, as cited in your letter dated May 11, 2007:

1. Extensive structural features were included in the building's design specifically to accommodate a telecommunications/internet services exchange use which resulted in a much higher cost than conventional construction;
2. Multiple (16) BAAQMD-permitted generators have been legally and mechanically maintained for potential telecommunications tenants and are otherwise superfluous;
3. The self-storage use has been active on site for approximately two years, not the minimum three years which would cause abandonment as set forth in Planning Code Section 185;
4. Permit applications for the third and fourth floors storage indicate on their face that both the existing and proposed use include telecommunications;
5. The Planning Department did not review or approve any permit as to use for self-storage;
6. The owner did not seek to change the building's use, nor apply for/obtain a change of use permit.
7. The interim self-storage use occupies less than one-half of the building's floor area.

While a conditional use may be deemed abandoned after a three-year continuous period of inactivity under Planning Code Section 178(d), given the afore mentioned facts of this case, it is evident that there has been no change of use that has continued uninterrupted for a period of

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three years, and therefore there is no abandonment of the telecommunications/internet service exchange use, which remains lawful.

If you have substantial reason to believe that there was an error in the interpretation of the Planning Code, or abuse of discretion on part of the Zoning Administrator, you may file an appeal within fifteen (15) days of the date of this letter. For further information, please contact the Board of Appeals in person at 1660 Mission Street, Room 3036, or call (415) 575-6880.

Sincerely,

Lawrence B. Badiner
Zoning Administrator

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