



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

July 21, 2010

Tuija Catalano
Reuben & Junius, LLP
One Bush Street, Suite 600
San Francisco, CA 94104

**RE: 430 Main and 429 Beale Street
Block: 3767 / Lots: 305 and 306**

Dear Ms. Catalano:

This letter is in response to your request for a letter of determination regarding the existing building's status as a legal non-conforming storage use for the property at 430 Main Street and 429 Beale Street, San Francisco (Assessor's Lots 305 and 306 on Block 3767). This parcel is located in the RH-DTR (Rincon Hill Downtown Residential) District and the 84-X Height and Bulk District.

In 2005, the property was rezoned from an M-1 (Light Industrial) zoning designation to an RH-DTR designation as part of the Rincon Hill Area Plan adoption. An industrial use such as storage is principally permitted in the M-1 zoning district, and in the RH-DTR district pursuant to Planning Code Section 825(c)(1)(A), and as further defined in Sections 890.54(c) and (d).

Buildings on both lots were originally constructed for industrial uses. City Directory listings (including a 1951 occupant listing of "City Transfer & Storage Co."), provide evidence of the property's long history of storage use. More recently, Data-Safe operated a storage facility at the property until July 2007. Therefore, it is my determination that the current legal use of the property is a storage use, a permitted principal use under Planning Code Sections 825 and 827.

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,

A handwritten signature in black ink, appearing to read "Scott F. Sanchez".

Scott F. Sanchez
Acting Zoning Administrator

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

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June 4, 2010

BY HAND DELIVERY

Zoning Administrator
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: Request for Written Determination
Property Address: 430 Main and 429 Beale Streets
Block/Lot: Block 3767, Lots 305 and 306
Our File No.: 5169.03

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CITY & COUNTY OF S.F.
PLANNING DEPARTMENT

Dear Zoning Administrator:

Our office represents Portland-Pacific Main, LLC, the owner of the property located at 430 Main Street and 429 Beale Street, San Francisco (Assessor’s Block 3767, Lots 305 and 306) (“Property”). Pursuant to the provisions of San Francisco Planning Code Section 307(a), we respectfully request a written determination that confirms that the building is a legal non-conforming storage use under Planning Code Section 890.54, and the said use may be re-established.

A. Building History

The buildings located at the Property have a long history of storage use, and were originally constructed to storage use standards. Historic images of the Property, such as the circa 1952 image of the Main Street façade below, show the building’s use as a storage facility. City Directory listings dating back to 1951 indicate the occupant as “City Transfer & Storage Co.”, later succeeded by Roberts Storage of San Francisco, and thereafter reorganized as Data-Safe.



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¹ Also admitted in New York ² Of Counsel

B. Recent Building History

The current owner, Portland-Pacific Main, LLC purchased the Property in November 2006, however Data-Safe continued to operate the Property as a storage facility thereafter until July 2007. The current owner has since used the building on a storage basis, and has not converted the building to any other use, nor attempted or intended in any way to abandon the storage use.

The current owner has continuously attempted to find a suitable tenant to replace Data-Safe. Since 2007 there has been more than one leasing agreement with a real estate brokerage firm to find a tenant who would continue the storage operation. Although there has been no conversion of the use of the building into any other use, in September 2007 the owner did file applications with the Planning Department for a future new construction residential project (under Case No. 2007.1121EXVK). The owner continued its leasing efforts after the filing of the applications.

The effort to find a tenant has been complicated by the general state of economy, but also by the fact that the applications for a different, future project were pending which potential tenants interpreted as an opportunity for a shorter-term tenancy only. The Planning Department applications for the new construction residential project were approved at the Planning Commission level on May 14, 2009, however there was also a challenge to the project's environmental review, which on October 21, 2009 was heard by the Board of Supervisors resulting in the reversal of the environmental exemption determination. As a result of the Board's action, the construction of a future residential project is unlikely to be immediate, and thus there is now an improved opportunity to find a storage operator tenant with a longer tenancy period.

The Property was subject to rezoning in 2005 from its prior M-1 zoning designation to RH-DTR designation. Notwithstanding the 2005 rezoning, storage use remains a principally permitted use (See Pl. Code Sec. 825(c)(1)(A); Table 827.26-827.45a). Under current Code, the storage use at the Property, in Article 8 mixed-use districts, is most appropriately categorized under Section 890.54(c) and (d).

C. Conclusion

The Property has been used for storage, as defined under today's Planning Code Section 890.54, for over 50 years. At no point has the storage use been abandoned or converted into another use. Since the departure of Data-Safe in 2007, the building has been actively offered for lease for a storage tenant, however due to circumstances beyond the current owner's control, a suitable storage tenant has not been located and instead the owner has used the building for storage while searching for a tenant.

Zoning Administrator

June 4, 2010

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We respectfully request a Zoning Administrator determination that confirms that the Property's use is a legal non-conforming storage use under Sec. 890.54, that the use has not been abandoned, and that the storage use could be re-established at any time provided the owner continues its efforts to find a tenant and does not abandon or convert the building into any other use in the interim.

I have enclosed a check for the required fee for \$549.50. Thank you for your assistance.

Very truly yours,

REUBEN & JUNIUS, LLP



Tuija I. Catalano

cc: Ben Fu, Planning Department (*via email*)
Chris Zupsic, Portland-Pacific Main, LLC (*via email*)