



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Planning Code Text Amendment

HEARING DATE: MAY 9, 2019

90-DAY DEADLINE: AUGUST 5, 2019

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

*Project Name:* **Legitimization program for certain Non-Residential Uses at 3150-18th Street**

*Case Number:* **2019-002217PCA** [Board File No. 190165]

*Initiated by:* Supervisor Ronen / Re-Introduced May 7, 2019

*Staff Contact:* Audrey Butkus, Legislative Affairs  
Audrey.Butkus@sfgov.org, 415-575-9129

*Reviewed by:* Aaron Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

*Recommendation:* **Approval with Modifications**

### PLANNING CODE AMENDMENT

The Ordinance would amend the Planning Code to establish a legitimization program for certain Non-Residential Uses at 3150 18th Street, also known as ActivSpace.

#### The Way It Is Now:

1. 3150 18<sup>th</sup> Street is zoned Production, Distribution, and Repair General (PDR-1-G). The intention of this District is to retain and encourage existing production, distribution, and repair activities and promote new business formation. This District prohibits Residential and Office uses, and limits Retail and Institutional uses.

#### The Way It Would Be:

1. The legislation would codify a new Section 192, establishing a legitimization program to allow existing uses operating at 3150 18th Street without the benefit of all required permits to seek those permits. The legitimization program applies to non-residential uses that meet the following conditions:
  - a. If the use is for office, any building permit will be subject to mandatory discretionary review by the Planning Commission;
  - b. As of January 15, 2019, it was already operating at 3150 18th Street;
  - c. As of January 15, 2019, it had a lease with the owner of 3150 18th Street, or a written agreement with an entity that has such a lease with the owner; and
  - d. Applications for all appropriate permits from any City or State agency to legalize the use are filed within 90 days of the effective date of this ordinance, and the applicant diligently pursues the permit(s) until they are issued.

2. Non-Residential Uses that qualify under this legitimization program would be considered Legal Non-Conforming Uses, to sunset 10 years after the Ordinance becomes active. Any legal non-conforming uses under the legitimization program would then lose their nonconforming status.
3. The Ordinance would have no retroactive effect, and would not forgive or waive enforcement of any violations that occurred prior to the Ordinance's effective date.

## BACKGROUND

This Ordinance is the result of ongoing enforcement with the Planning Department, Health Department and the Department of Building Inspection regarding illegal businesses operating at 3150 18<sup>th</sup> Street.



*ActivSpace exterior (activspace.com)*



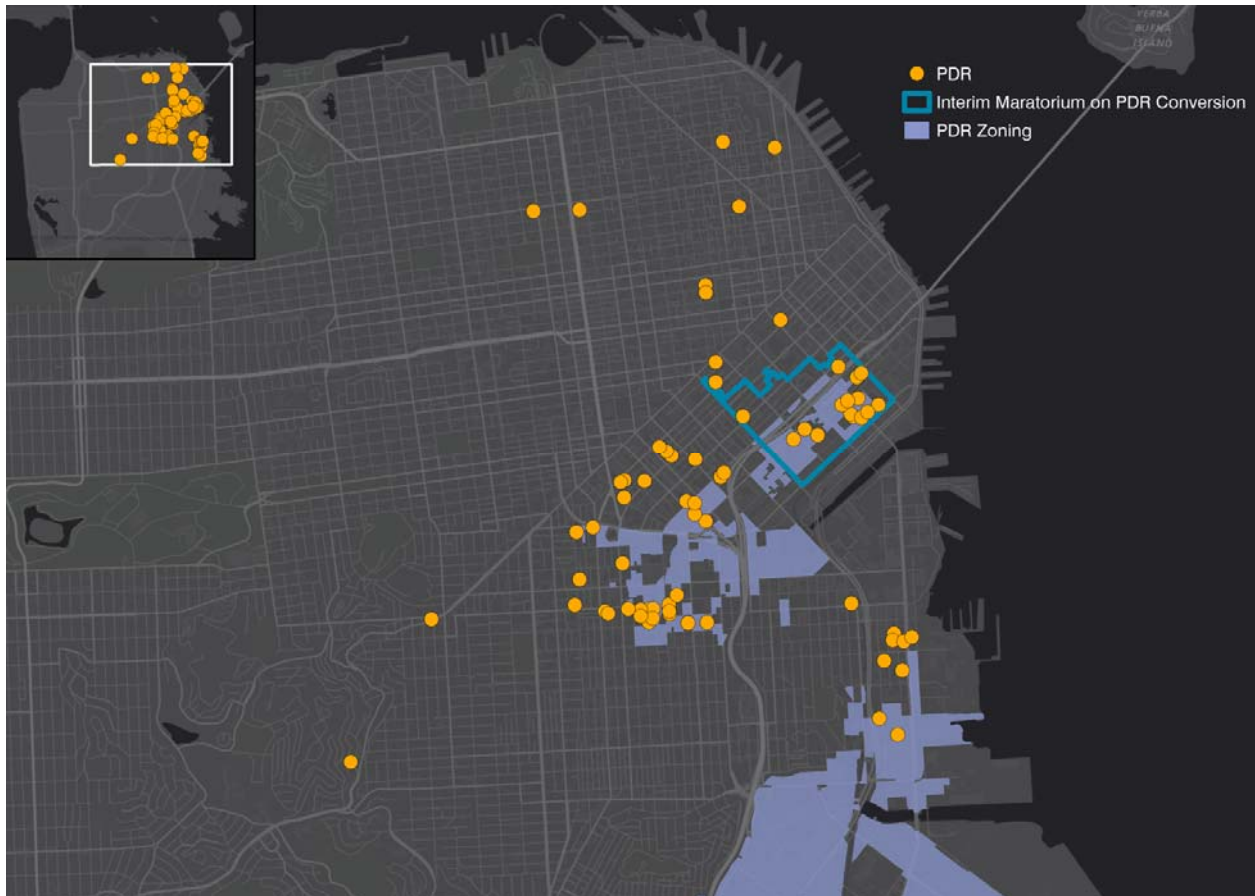
*Typical upper story unit in ActivSpace (yelp.com)*

On September 23, 2004, the Planning Commission moved to take Discretionary Review and approve a project at 3150 18<sup>th</sup> Street. The project proposed to demolish two, two-story light industrial office and warehouse buildings and in their place construction of a five-story building with approximately 260 commercial units (287 *were actually built*) and a single caretaker's unit. The commercial units were designated exclusively as rental workshops for arts activities, light manufacturing, repair and small business services uses. As part of the approval action, the Commission prohibited office and residential uses on the site, save for an administrative office for the building, and one caretaker's unit. This was memorialized by a Notice of Special Restrictions being places on the property's Assessor's Record. The units range in size from ~100 square feet to ~400 square feet (*see Exhibit B*).

As part of the approval action, the Commission prohibited office and residential uses on the site . .

On January 22, 2019 the Planning Department received an anonymous complaint alleging the illegal operation of tattoo and massage establishments at the site. On February 27, 2019, the Planning Department issued a Notice of Enforcement for the subject property for violating its Notice of Special

Restrictions<sup>1</sup> and for the presence of illegal Massage and Personal Service uses. This Notice of Enforcement is attached as Exhibit C. This enforcement case is the result of a complaint filed on January 22, 2019 alleging the illegal operation of tattoo and massage establishments at the site. During the Code Enforcement investigation, Planning Staff discovered that many other uses had been established at the site without the benefit of permit. Many businesses were also operating without Business Licenses. This enforcement is ongoing, with some further enforcement action dependent on the result of this proposed Ordinance. As of February 22, 2019, only 6 businesses held the necessary permits to operate from the Department of Public Health, and only 2 businesses had filed a permit to establish their use with the Planning and Building Departments.



*Map displaying location of Code Enforcement complaints for illegal conversion from PDR filed through 2017.*

## ISSUES AND CONSIDERATIONS

### Office Uses at 3150 18<sup>th</sup> Street

The exact number of Office Uses currently in operation at 3150 18<sup>th</sup> Street is unknown; however, the Department's estimation is that there are currently between 35-50 tenants whose operations classify as an Office Use. The proposed Ordinance would require any current tenant operating as an Office Use to seek Discretionary Review approval from the Planning Commission to be able to participate in the program.

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<sup>1</sup> See Exhibit B

Some tenants have asked that the ordinance include language that would overturn the Commission's Discretionary Review action altogether; however, that is not possible. The Board is the body that approves ordinances, and the Board cannot overturn a Planning Commission's Discretionary Review action. Only the Planning Commission or the Board of Appeals can do that, and the window to appeal this decision to the Board of Appeals has long passed. Therefore, the only way this restriction can be removed is through another Discretionary Review action by the Planning Commission, which would require a change of use permit from the property owner or tenant.

The Board cannot overturn a Planning Commission's Discretionary Review action. Only the Planning Commission or the Board of Appeals can do that...

Though the Department understands the desire of the sponsor to ensure all current tenants have an ability to remain at 3150 18<sup>th</sup> Street, the Department would caution any applicant against pursuing this avenue. Seeking to overturn the Commission decision in this manner does not guarantee that these current office businesses will be able to be approved. Further, the Department is unlikely to recommend approval of such an application because of the City's long-standing policy to protect PDR spaces from office or residential development. These small business may end up spending a significant amount of time and money seeking approval, only to be either disapproved, or approved but only for the remaining length of the legitimization program. It should also be acknowledged that approval of the office businesses may inadvertently raise rents beyond the current levels, placing the small-scale PDR and Arts Activities Uses at risk of displacement. While a home office, which is permitted in the Planning Code, may not be ideal for some of these businesses in the long term, it is an option for them in the short-term while they look for new office space in the City.

### **Length of Amnesty Program**

The Ordinance proposes allowing all uses approved through the Legitimization Program to operate for a period of no more than 10 years. After 10 years all uses not allowed in PDR-1-G would need to vacate the building. This legitimization program is tied to the land use and not the occupant; therefore, if an existing tenant vacates the building before the 10 years expire, a new tenant of that same use may occupy the unit until the expiration of program. The 10-year period would begin starting the day the legislation becomes effective.

Staff finds that the 10-year time-period defeats the purpose of the program being temporary. The purpose of the legitimization program is to provide current tenants whose land use is not currently permitted time to find a new business location. The program is not intended to permanently permit these non-conforming uses. Permanently permitting these land uses would only serve to: 1. Reward a property owner who has knowingly violated their zoning controls, possibly setting a precedent for other developers in PDR Districts to do the same; 2. Permanently remove greatly needed affordable Arts Activity and Light Industrial rental spaces; and 3. Increase rents even higher than what today's office tenants can afford, furthering the displacement of small businesses. Under this reasoning, allowing these uses to stay for 10 years is an excessive amount of time to accomplish the stated purpose of the program.

The Department is also concerned about the length of the program because of owner's record of failing to inform tenants of the property's restrictions. Although the legislation requires the property owner to inform new tenants of the legitimization program, the Department is skeptical that property owner will properly inform each new non-conforming tenant of the temporary nature of their tenancy. As a result, the City may find itself back in the same position in 10 years: trying to protect small business tenants from being evicted on short notice due to not being properly informed of the temporary nature of their land use authorization.

### **Production Distribution and Repair Districts**

PDR Districts provide space for a wide variety of PDR (production, distribution and repair) and other non-residential activities in districts where these uses are free from inherent economic and operational competition and conflicts with housing, large office developments, and large-scale retail, which are not permitted in these Districts. Other uses that share operational characteristics with PDR uses are permitted in these Districts, as they require large flexible spaces and prefer separation from intensive housing districts. PDR-zoned land is also an important reservoir of space in San Francisco for new and evolving industry and activity types that cannot be foreseen today and cannot practically function or compete for space in a typical downtown office or neighborhood commercial environment. Businesses and activities allowed in PDR Districts generally share a need for flexible operating spaces that feature large open interiors, high ceilings, freight loading docks and elevators, floors capable of bearing heavy loads, and large (often uncovered exterior) storage areas. These uses are often not ideally compatible with housing for operational reasons, including the need for significant trucking and delivery activities, 24-hour operation, and emission of noise, odors and vibrations. Importantly, PDR uses are limited in the amount of rent they can afford relative to office, retail, and residential uses, yet are important sectors of the City's economy.

### **Protecting PDR Spaces**

The City set out to protect its industrial lands in the late 1990s because of the rise of the tech industry in San Francisco. Looking for cheap new office space, new tech start-ups started to rent industrial space in the eastern part of the city. This in-turn either displaced existing industrial uses or removed scarce industrial space from the real-estate market. As a result, the City engaged in a several attempts to stop the loss of industrial space, first with an Industrial Protection Zone, and finally by rezoning industrial parcels to a new zoning district designation, PDR (Production, Distribution, and Repair). Unlike the existing industrial zoning (M-1 and M-2), these new PDR zoning districts prohibited office and residential uses and significantly restricted the amount of retail and non-PDR uses.

The building at 3150 18<sup>th</sup> Street was approved while the city was looking for ways to protect its industrial lands, and prior to the adoption of PDR Zoning. The building was specifically designed to provide small, affordable workspaces for Arts and Light Industrial uses, and the Commission's support of the project was based on this fact. ActivSpace describes itself as a company *"designed and built specifically with the needs of creative individuals in mind"*. The 289 units at 3150 18<sup>th</sup> Street are mostly small and include only a basic sink. Many of the units do not have windows. They are ideal for artist studios and maker spaces and their size makes them affordable to these types of uses. The longer the prohibited uses can remain at ActivSpace, the longer these units will remain inaccessible to the vulnerable artist and maker uses the City aims to protect.

### General Plan Compliance

The proposed Ordinance, with all recommended modifications complies with Objective 1.1 of the Mission Area Plan to “strengthen the Mission’s existing mixed-use character, while maintaining the neighborhood as a place to live and work.” It does this by preventing the eviction of commercial tenants whose land uses do not conform to the PDR zoning, while also ensuring that these affordable spaces are eventually returned to their intended PDR uses. The proposed Ordinance, *with* the proposed modifications to limit the legitimization program’s length to 3 years and to prevent Office Uses from remaining at the site, also complies with Objective 6.1 support the continued development and preservation of artists’ and arts organizations’ spaces. The Ordinance, with the recommended modifications, ensures that the building is returned to its intended purpose to serve artists and makers as soon as a reasonable amount of time has passed to ensure current non-complying tenants may find new business locations.

### Implementation

The Department has determined that this ordinance will impact our current implementation procedures in the following ways:

- There are many unknowns and factors that are beyond the Department’s or City’s control that can affect the success or failure of this program, including:
  - The property owner is under no obligation to assist tenants in legalizing their use, or in stabilizing their rent to make it worth the time and expense for them to go through the time and expense of legalizing their use. Most leases in this building are month-to-month.
  - As it is currently unknown how many units have been physically altered without permits, the Department of Building Inspection has expressed that they may require new architectural plans to be submitted for some or all units when they come in to establish their use. Though the project architect and property owner have verbally committed to sharing the approved architectural plans, DBI seems unable to verify the current accuracy of the various plan versions, and the tenants claim the property owner/architect have yet to share plans with them.
  - This program’s success will largely rely on the tenants and property owner coming together and coordinating amongst themselves to legalize their uses with the various city agencies.
  - The program may have the inadvertent effect of raising the rents beyond affordability for current tenants, while enabling future office uses to enter the neighborhood and occupy space designed for artists and producers (for the period of the legitimization program).
- Some of the current tenants are fall into uses that are allowed in PDR-1-G, but only up to certain amounts. Taken in aggregate, these uses may already be over the allowable square footage limits in the Planning Code. The Department believes the following uses may already be operating in excess of their allowable size limitations:
  - Social Service or Philanthropic Facility: **C if over 5,000sqft**
  - Health Services: **C if over 5,000sqft**
  - Other Retail Sales and Service Uses: Bar, Cannabis Retail, Tourist Oriented Gift Store, Specialty Grocery, Jewelry Store, Liquor Store, Non-Auto Sales, Pharmacy, Restaurant, Limited Restaurant, General Retail Sales and Service, Financial Service, Fringe Financial Service, Limited Financial Service, Instructional Service, Personal Service, Retail

Professional Service, and Tobacco Paraphernalia Establishment: NP once combined uses are over 2,500sqft.

There will be consternation and confusion from tenants who try to legalize these uses permanently if the property owner does not devise a system to designate which units will be permanent, and which will be temporary under the program. The property owner must do this prior to the effective date of this ordinance to avoid any confusion. The City cannot compel the property owner to make these determinations.

## RECOMMENDATION

The Department recommends that the Commission *approve with modifications* the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Decrease the program's time period from 10 years to 3 years.
2. Do not permit Office Uses to participate in the legitimization program.

## BASIS FOR RECOMMENDATION

The Department supports the Ordinance with all proposed modifications because it will ensure that small business tenants of 3150 18<sup>th</sup> Street are given time to legitimize their uses if they are allowed under PDR-1-G zoning, or time to find a new business location if they are not allowed to operate under PDR-1-G zoning. Although the Department supports the overall intentions and goals of this Ordinance, it also cautions that even with the adoptions of all proposed modifications, the success of this program contains additional variables (described in the Implementation section above) that are not within the City's control.

1. **Decrease the program's time period from 10 years to 3 years.** Most if not all leases at 3150 18<sup>th</sup> Street are month-to-month. They are not standard 5-year commercial leases. This program is designed to give non-complying tenants time to find a new business location. Department staff find that 10 years is too long. Many tenants may move out during that time, and under this program new tenants of the same use may move into the space. The City cannot be held responsible for notifying every new tenant of the impending expiration date on their use. Further, based on past behavior, the Department is skeptical that the property owner will properly notify new tenants. If the program is too long, the City may find itself back in the same position in 10 years: with tenants not knowing that their uses were not permanently allowed and then seeking an exception from the Planning Code. Lastly, these uses are not allowed in the PDR-1-G zoning district for good reason: most if not all of them can pay higher rents than PDR uses. Every month these uses can stay results in rewarding the property owner for knowingly breaking the Conditions of Approval placed on the property and the underlying zoning controls. The Department does not want to set a precedent for other developers to do the same in the future.
2. **Do not permit Office Uses to participate in the legitimization program.** PDR-1-G Districts are specifically designed to prevent the proliferation of Office Uses which can often pay more than double the amount of rent as traditional PDR uses. Office Uses in this district go against the intent of the District and the General Plan. Additionally, the original Conditions of Approval for the ActivSpace project specifically stated that Office Uses are not be allowed. Lastly, if the program is only 3 years (as staff recommends), by the time an Office use seeks to temporarily legalize through a Mandatory Discretionary Review, they will likely only have 1.5-2 years left to operate at

the space. The Department should not be offering permit avenues that are of little or no benefit to the applicant.

**REQUIRED COMMISSION ACTION**

The proposed Ordinance is before the Commission so that it may approve it, reject it, or approve it with modifications.

**ENVIRONMENTAL REVIEW**

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

**PUBLIC COMMENT**

As of the date of this report, the Planning Department has received three emails attached as Exhibit E regarding the proposed Ordinance. One email is from a client of a tenant at 3150 18<sup>th</sup> Street requesting the allowance for massage uses and two emails are from current office tenants at the subject site, requesting Office Uses be permitted at the property.

**Attachments:**

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Notice of Special Restriction
- Exhibit C: Notice of Enforcement
- Exhibit D: Estimation of Use Types Occurring in 3150 18<sup>th</sup> Street
- Exhibit E: Letters of Support/Opposition
- Exhibit F: Board of Supervisors File No. 190165





# SAN FRANCISCO PLANNING DEPARTMENT

EXHIBIT A

## Planning Commission Draft Resolution

HEARING DATE MAY 23, 2019

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

Reception:  
**415.558.6378**

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Planning  
Information:  
**415.558.6377**

*Project Name:* **Legitimization Program for Certain Non-Residential Uses at 3150-18th Street**  
*Case Number:* **2019-002217PCA** [Board File No. 190165]  
*Initiated by:* Supervisor Ronen / Re-Introduced May 7, 2019  
*Staff Contact:* **Audrey Butkus**, Legislative Affairs  
Audrey.Butkus@sfgov.org, 415-575-9129  
*Reviewed by:* Aaron D Starr, Manager of Legislative Affairs  
aaron.starr@sfgov.org, 415-558-6362

**RESOLUTION APPROVING WITH MODIFICATIONS A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE TO ESTABLISH A LEGITIMIZATION PROGRAM FOR CERTAIN NON-RESIDENTIAL USES AT 3150-18TH STREET (ASSESSOR'S PARCEL BLOCK NO. 3573, LOT NO. 106); ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.**

WHEREAS, on May 7, 2019 Supervisor Ronen re-introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 190165, which would amend the Planning Code to establish a legitimization program for certain non-residential uses at 3150-18th Street (Assessor's Parcel Block No. 3573, Lot No. 106);

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 23, 2019; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15378 and 15060(c)(2); and

WHEREAS, the Planning 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 Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby **approves with modifications** the proposed ordinance.

The Commission's proposed modifications are as follows:

1. Decrease the program's time period from 10 years to 3 years.
2. Do not permit Office Uses to participate in the legitimization program.

## 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 proposed Ordinance with all recommended modifications, is on balance with the General Plan. The Ordinance with all recommended modifications prevents the eviction of small, commercial tenants whose land uses do not conform to the PDR zoning, while also ensuring that these affordable spaces are eventually returned to their intended PDR uses. The Ordinance with all recommended modifications, ensures that the building is returned to its intended purpose to serve artists and makers as soon as a reasonable amount of time has passed to ensure current non-complying tenants may find new business locations.
2. **General Plan Compliance.** The proposed Ordinance with the Commission's recommended modifications are is consistent with the following Objectives and Policies of the General Plan:

## COMMERCE AND INDUSTRY ELEMENT

### OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

#### Policy 4.3

Carefully consider public actions that displace existing viable industrial firms.

#### Policy 4.11

Maintain an adequate supply of space appropriate to the needs of incubator industries.

*The proposed Ordinance with all recommended modifications will ensure that the building at 3150 18<sup>th</sup> Street returns to its authorized land uses, which cater to Light Industrial and Arts Activities Uses, while giving current non-conforming tenants enough time to find a new place of business.*

## MISSION AREA PLAN

### OBJECTIVE 1.1

STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.

*The Ordinance with all recommended modifications succeeds in preventing the eviction of commercial tenants whose land uses do not conform to the PDR zoning, while also ensuring that these affordable spaces are eventually returned to their intended PDR uses.*

**OBJECTIVE 6.1**

**SUPPORT THE ECONOMIC WELLBEING OF A VARIETY OF BUSINESSES IN THE EASTERN NEIGHBORHOODS.**

*The Ordinance with all recommended modifications ensures that the building is returned to its intended purpose to serve artists and makers as soon as a reasonable amount of time has passed to ensure current non-complying tenants may find new business locations.*

3. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

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 proposed Ordinance with all recommended modifications would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.*

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

*The proposed Ordinance would not have a negative effect on housing or neighborhood character.*

3. That the City's supply of affordable housing be preserved and enhanced;

*The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.*

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

*The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.*

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 proposed Ordinance with all recommended modifications would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.*

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an

earthquake;

*The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.*

7. That the landmarks and historic buildings be preserved;

*The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.*

8. That our parks and open space and their access to sunlight and vistas be protected from development;

*The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.*

4. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby APPROVES WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 23, 2019.

Jonas P. Ionin  
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: May 23, 2019

Recording Requested by and  
When Recorded Return to:

CONFORMED COPY of document recorded on,

Gary Romain  
Activspace LLC  
819 North 49th Street, #400  
Seattle, WA 98103-6517

10/01/2004, 2004H825717  
This document has not been recorded with the original  
SAN FRANCISCO ASSESSOR RECORDER

Block 3573, Lots 2 and 12

**NOTICE OF SPECIAL RESTRICTIONS  
UNDER THE SAN FRANCISCO PLANNING CODE**

18TH AND TREAT SAN FRANCISCO VENTURE, LLC, A WASHINGTON LIMITED LIABILITY COMPANY ("Owner"), the owner of that certain real property situated in the City and County of San Francisco, State of California, more particularly described on the attached Exhibit A, hereby gives notice that there are special restrictions on the use of said property under Part II, Chapter II of the San Francisco Municipal Code (Planning Code).

Said restrictions consist of conditions attached to the approval of Building Permit Application No. 2004/05/21/4487 for the construction of a workshops project by the Planning Department and are conditions that had to be so attached in order that said application could be approved under the Planning Code and under Discretionary Review Case No. 2004.0635D, which was required by Planning Commission Resolution 16727.

The restrictions and conditions of which notice is hereby given are as follows:

1. The project approved contains approximately 275 units of rental workshops for arts activities, light manufacturing, and home and business services uses, as defined by Sections 102.2, 226, and 222 of the Planning Code, respectively; approximately 700 square feet of retail sales or restaurant space, as defined by Section 218 of the Planning Code; and may contain one caretaker's unit, as defined by Section 204.4 of the Planning Code.

2. No workshop unit shall be occupied for office uses, as defined by Sections 219, 320(f), 790.106, 790.108, 890.106, 890.108 and 890.114 of the Planning Code, except for the property's on-site manager's office.

3. No workshop shall be used as a dwelling unit or for any other residential use, as defined by Sections 215-216 of the Planning Code, except for a single caretaker's unit.

4. Not less than 50 off-street parking spaces and one off-street loading space.

shall be maintained for use by occupants of the building.

5. Violations of the provisions noted above or any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Planning Code Section 176.

The use of said property contrary to these special restrictions shall constitute a violation of the City Planning Code, and no release, modification or elimination of these restrictions shall be valid unless notice thereof is recorded on the Land Records by the Zoning Administrator of the City and County of San Francisco.

Dated: 9/30/04 at Seattle, WA  
~~San Francisco, California~~

18th and Treat San Francisco Venture,  
LLC, a Washington limited liability  
company

By 

Its Manager



# PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

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COMMISSION CALENDAR  
INFO: 558-6422

INTERNET WEB SITE  
SFGOV.ORG/PLANNING

**DATE:** October 5, 2004  
**TO:** Interested Parties  
**FROM:** Linda Avery, Commission Secretary  
**RE:** Planning Commission Action

**Property Address:** 3150 18<sup>th</sup> Street  
**Building Permit Application Nos.:** 2004.05.21.4485 (demo); 2004.05.21.4484 (demo)  
and 2004.05.21.4487 (new construction)  
**Discretionary Review Case No.:** 2004.0635D

On **September 23, 2004**, the Planning Commission reviewed the above-referenced building permit application with the following results:

## 1. ACTION

- The Commission moved to take Discretionary Review and approve the project with the design changes for the Treat Avenue façade introduced at the hearing, and with the requirement that a Notice of Special Restriction be recorded against the property indicating that office and residential uses (except for a care taker's unit) not be permitted as part of the project.

## 2. FINDINGS

The reasons the commission took the action described above include:

- The project will provide more square footage of PDR use than is being taken away with the proposed demolition. Therefore, it meets the general intent of the Eastern Neighborhood policies and the "Core PDR" Designation.
- The proposed building at its scale and configuration is appropriate for industrial zoned parcels.
- The project meets the requirements and intent of the Planning Code, the Industrial Design Guidelines and the General Plan.

October 5, 2004  
3150 18<sup>th</sup> Street  
DR Case No. 2004.0635D  
Page 2

3. . Speakers at the hearing included:

In support of the project

Steve Vettel  
Kathleen Diop  
Johnathan Beery  
Lisa Roberson  
Oskar Grande  
Richard Stacy  
Gary Romain

Opposed to the Project

Jillen Doroan  
Kellie Seringer  
Heidi Sokolowsky  
Ian Green  
Ron Slayen  
Mike Sagalowitz

Jeremy Nelson (no position)

Planning Commissioners: Bradford Bell, Antonini, Hughes, W. Lee, S. Lee Olague

Case planner: Mat Snyder

cc: Linda Avery

MMS: G:\CASES2004\18TH3150 - DRMemo.doc





# SAN FRANCISCO PLANNING DEPARTMENT

## NOTICE OF ENFORCEMENT

February 27, 2019

**Property Owner**

18TH & TREAT VENTURE SF LLC  
819-NO 49TH STREET #400  
SEATTLE, WA 98103

**Site Address:** 3150 18th Street (A.K.A ActivSpace)  
**Assessor's Block/Lot:** 3573/ 106  
**Zoning District:** PDR-1-G, Production, Distribution & Repair - 1 - General  
**Complaint Number:** 2019-000912ENF  
**Code Violation:** Section 174, Violation of Notice of Special Restrictions; Section 210.3, Illegal Massage and Office Uses  
**Administrative Penalty:** Up to \$250 Each Day of Violation  
**Response Due:** Within 15 days from the date of this Notice  
**Staff Contact:** Dario Jones, (415) 558-6477, dario.jones@sfgov.org

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

The Planning Department has received a complaint that a Planning Code violation exists on the above referenced property that needs to be resolved. As the owner of the subject property, you are a responsible party. The purpose of this notice is to inform you about the Planning Code Enforcement process so you can take appropriate action to bring your property into compliance with the Planning Code. Details of the violation are discussed below:

### DESCRIPTION OF VIOLATION

Planning Department records indicate that the subject property ("Property") is currently authorized for 275 rental workshops for arts activities, light manufacturing, and home and business service uses (i.e., trade shop); and, approximately 700 square feet of retail sales under Discretionary Review Case No. 2004.0635D and recorded per a Notice of Special Restrictions dated October 1, 2004 (attached).

On January 22, 2019, in response to a complaint alleging the operation of unauthorized tattoo and massage establishments, the Department of Public Health conducted an inspection to the Property. The inspection confirmed several unpermitted massage, tattoo, office, and medical service uses throughout the Property; and; the inspection findings were brought to the attention of the Planning Department ("Department").

Further research of the building permit history for the subject property did not locate any building permits authorizing the establishment of the uses listed above. As noted above, the Property was subject to a Notice of Special Restrictions, and the PDR-1-G Zoning District prohibits massage and office uses. Based on the above, the subject property is in violation of Planning Code Section 174 for

non compliance of the Notice of Special Restrictions and Planning Code Section 210.3 for the establishment of illegal massage and office uses.

Please note: there is pending legislation that may be adopted to allow some of the non complying uses to continue to operate on the subject property. Given the pending status of this legislation, the Department is seeking the following information:

1. **Provide a list identifying each business / tenant and associated commercial workshop unit**
2. **A floor plan that demonstrates the location of each business/ tenant**
3. **The lease agreement for each business / tenant**

Pursuant to Planning Code Section 171 structures and land in any zoning district shall be used only for the purposes listed in this Code as permitted in that district, and in accordance with the regulations established for that district. Further, pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Failure to comply with any of Planning Code provisions constitutes a violation of the Planning Code and is subject to the enforcement process under Code Section 176.

## HOW TO CORRECT THE VIOLATION

1. **At this time, the Department is not assessing any administrative penalties against the property owner or the tenants in the subject property.**
2. However, you must contact the Enforcement Planner, listed in this notice, to arrange for a site inspection of all business / tenants in the subject property and submit the requested information listed above within 15-days from the date of this notice. Further, the Planning Department may request additional information based on the outcome of the site visit.
3. You must submit a Building Permit Application to the Planning Department that identifies all the uses on the subject property. Please note: the subject property may be subject to development impact fees per Planning Code Section 423(c)(1)(D) for all changes of use.
4. You may also need to obtain a building permit for any alterations done at the property. Please contact the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088, website: [www.sfgov.org/dbi](http://www.sfgov.org/dbi), regarding the Building Permit Application process. Please visit the Planning Information Counter located at the first floor of 1660 Mission Street or website: [www.sf-planning.org](http://www.sf-planning.org) for any questions regarding the planning process.

## TIMELINE TO RESPOND

The responsible party has **fifteen (15) days from the date of this notice** to contact the staff planner noted at the top of this notice and submit evidence to demonstrate that the corrective actions have been taken to bring the subject property into compliance with the Planning Code. A site visit may also

be required to verify the authorized use at the above property. The corrective actions shall be taken as early as possible. Any unreasonable delays in abatement of the violation may result in further enforcement action by the Planning Department.

## **PENALTIES AND APPEAL RIGHTS**

Failure to respond to this notice by abating the violation or demonstrating compliance with the Planning Code **within fifteen (15) days from the date of this notice** will result in issuance of a **Notice of Violation** by the Zoning Administrator. Administrative penalties of up to **\$250 per day** will also be assessed to the responsible party for each day the violation continues thereafter. The Notice of Violation provides appeal processes noted below.

- 1) Request for Zoning Administrator Hearing. The Zoning Administrator's decision is appealable to the Board of Appeals.
- 2) Appeal of the Notice of Violation to the Board of Appeals. The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day the violation exists, excluding the period of time the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

## **ENFORCEMENT TIME AND MATERIALS FEE**

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party may be subject to an amount of \$2,012.87 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of the violation. This fee is separate from the administrative penalties as noted above and is not appealable.

## **OTHER APPLICATIONS UNDER CONSIDERATION**

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until the violation is corrected. We want to assist you in ensuring that the subject property is in full compliance with the Planning Code. You may contact the enforcement planner as noted above for any questions.

Enc: Notice of Special Restrictions

cc: Supervisor Hillary Ronen, Office of Supervisor Hillary Ronen  
Carolina Morales, Office of Supervisor Hillary Ronen  
Steven L. Vettel, Attorney, Farella Braun and Martel LLP, 235 Montgomery St, 17<sup>th</sup> Floor, San Francisco, CA 94104

Post-Inspection Summary of Land Uses*	
ACTIVSPACE	
Data as of 03/08/2019	
Post Inspection Land Use	Number of Tenants
Arts Activity	66
Health Service (Acupuncture, Chiropractor)	6
Health Service (Therapy)	47
Kennel	1
Residential	1
Massage	27
Office	48
PDR	14
Personal Service	61
Vacant	15
Retail	1
Property Administrative	2
<b>Total</b>	<b>289</b>

*\*This data is an estimation of the number of land uses by tenant space, compiled after an on-site inspection and in conjunction with data submitted by the property owner.*

>> -----Original Message-----

>> From: [ypesic@gmail.com](mailto:ypesic@gmail.com) [<mailto:ypesic@gmail.com>]

>> Sent: Friday, February 22, 2019 5:22 PM

>> To: Breed, Mayor London (MYR) <[mayorlondonbreed@sfgov.org](mailto:mayorlondonbreed@sfgov.org)>; Yee,

>> Norman (BOS) <[norman.yee@sfgov.org](mailto:norman.yee@sfgov.org)>; Brown, Vallie (BOS)

>> <[vallie.brown@sfgov.org](mailto:vallie.brown@sfgov.org)>; [sandrafewer@sfgov.org](mailto:sandrafewer@sfgov.org); Haney, Matt (BOS)

>> <[matt.haney@sfgov.org](mailto:matt.haney@sfgov.org)>; Safai, Ahsha (BOS) <[ahsha.safai@sfgov.org](mailto:ahsha.safai@sfgov.org)>;

>> Stefani, Catherine (BOS) <[catherine.stefani@sfgov.org](mailto:catherine.stefani@sfgov.org)>; Walton,

>> Shamann (BOS) <[shamann.walton@sfgov.org](mailto:shamann.walton@sfgov.org)>

>> Subject: ActivSpace - CALL FOR ACTION

>>

>>

>> This message is from outside the City email system. Do not open links or attachments from untrusted sources.

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>> Dear San Francisco civic leaders,

>>

>> I am writing to you today because I am worried about losing my massage therapist to the new zoning law. I've been visiting her bi-weekly for almost two years and her work has been a tremendous benefit for my health. Not only my health has improved physically, but also mentally and emotionally. I cannot imagine what I would do without her professional care. I see a legislation has been proposed to grandfather those who have been in the space prior to January 15, 2019. Please help my massage therapist and those like her keep their space and continue to provide vital care to our San Francisco community.

>>

>> Thank you,

>>

>> SF resident Yelena Pesic

## Butkus, Audrey (CPC)

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**From:** CPC-Commissions Secretary  
**Sent:** Monday, March 18, 2019 11:06 AM  
**To:** Richards, Dennis (CPC); Johnson, Milicent (CPC); Koppel, Joel (CPC); Moore, Kathrin (CPC); Melgar, Myrna (CPC); [planning@rodneyfong.com](mailto:planning@rodneyfong.com); Rich Hillis  
**Cc:** Butkus, Audrey (CPC); Feliciano, Josephine (CPC)  
**Subject:** FW: ActivSpace: 3150 18TH STREET (BOARD FILE NO. 190165)

Jonas P. Ionin,  
Director of Commission Affairs

Planning Department | City & County of San Francisco  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
Direct: 415-558-6309 | Fax: 415-558-6409

[jonas.ionin@sfgov.org](mailto:jonas.ionin@sfgov.org)  
[www.sfplanning.org](http://www.sfplanning.org)

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**From:** Sarah Nelson <[sarah@18reasons.org](mailto:sarah@18reasons.org)>  
**Sent:** Monday, March 18, 2019 10:32 AM  
**To:** CPC-Commissions Secretary <[commissions.secretary@sfgov.org](mailto:commissions.secretary@sfgov.org)>; Ronen, Hillary <[hillary.ronen@sfgov.org](mailto:hillary.ronen@sfgov.org)>; Morales, Carolina (BOS) <[carolina.morales@sfgov.org](mailto:carolina.morales@sfgov.org)>  
**Subject:** ActivSpace: 3150 18TH STREET (BOARD FILE NO. 190165)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Thanks to the efforts of Supervisor Hillary Ronen, a legislative fix is in the works to grandfather existing businesses in so we can stay at ActivSpace. However, at this point the legislation only applies to some personal services businesses.

I appreciate Supervisor Ronen's leadership in helping to ensure that businesses can stay at ActivSpace, and I urge the Planning Commission to amend the legislation to ensure that it applies to all businesses currently located at ActivSpace, not just personal and health services.

I am the Executive Director of a local nonprofit called 18 Reasons, with an office space in the ActivSpace building that we use for staff meetings, trainings, and general administrative work. Most of our work is done in the field, but we do need a small, flexible office space. We have been in the building since 2011 and love the community of small businesses here.

I will be going out on maternity leave later this week, but will check my email occasionally and would appreciate updates on this matter.

Many thanks,  
Sarah

--

Sarah Nelson

Executive Director, 18 Reasons  
(415) 994 2164

## Butkus, Audrey (CPC)

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**From:** CPC-Commissions Secretary  
**Sent:** Tuesday, May 14, 2019 10:55 AM  
**To:** Butkus, Audrey (CPC)  
**Cc:** Feliciano, Josephine (CPC)  
**Subject:** FW: ActivSpace legislation: scheduled for 5/23 Planning Commission hearing

Jonas P. Ionin,  
Director of Commission Affairs

Planning Department | City & County of San Francisco  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
Direct: 415-558-6309 | Fax: 415-558-6409

[jonas.ionin@sfgov.org](mailto:jonas.ionin@sfgov.org)  
[www.sfplanning.org](http://www.sfplanning.org)

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**From:** Elizabeth Chur <elizabethchur@gmail.com>  
**Sent:** Monday, May 13, 2019 10:44 PM  
**To:** Melgar, Myrna (CPC) <myrna.melgar@sfgov.org>; Koppel, Joel (CPC) <joel.koppel@sfgov.org>; Fung, Frank (CPC) <frank.fung@sfgov.org>; richhillissf@gmail.com; Johnson, Milicent (CPC) <milicent.johnson@sfgov.org>; Moore, Kathrin (CPC) <kathrin.moore@sfgov.org>; Richards, Dennis (CPC) <dennis.richards@sfgov.org>  
**Cc:** CPC-Commissions Secretary <commissions.secretary@sfgov.org>; Dick-Endrizzi, Regina (ECN) <regina.dick-endrizzi@sfgov.org>; Donovan, Dominica (ECN) <dominica.donovan@sfgov.org>  
**Subject:** ActivSpace legislation: scheduled for 5/23 Planning Commission hearing

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Planning Commission Members:

My name is Elizabeth Chur. I am a freelance medical writer, and have been an ActivSpace tenant since 2008. I am a 25-year resident of San Francisco, and have been the sole proprietor of my woman-owned, minority-owned business for 15 years. I provide professional services to nonprofits, and write grant reports and proposals for Zuckerberg San Francisco General Hospital, the UCSF Foundation, and Stanford.

I greatly appreciate Supervisor Ronen's efforts to allow many personal services tenants to remain at ActivSpace. However, there are a small handful of long-term tenants like myself who are facing the threat of eviction. To preserve the economic diversity of our city and protect our livelihoods, **I respectfully request that you amend the proposed legislation to allow non-technology firm tenants to participate in the legitimization program without undergoing mandatory discretionary review.** The Office of Small Business informed me that this process could cost \$14,000 or more, with no guarantee of being allowed to remain at ActivSpace. That exorbitant cost puts the process out of reach for a sole proprietor like me. Another alternative to promote equity would be to institute a fee waiver.

As you know, it is increasingly difficult for small businesses to survive in San Francisco's challenging economy. I understand the need to preserve spaces for artists, and to protect them against the encroachments of technology firms and other large businesses. However, in this situation, sole proprietors like myself are subject to the same zoning



restrictions as huge firms like Google and Facebook. Yet my financial resources are miniscule compared to the tech giants that are driving escalations in the real estate market. If I lose my unit at ActivSpace, there are very few affordable alternatives, and there will be serious consequences for my livelihood:

- **Extremely limited supply of micro-offices:** I keep my business financially sustainable by running a very lean, low-overhead operation. My unit at ActivSpace is 100 square feet. There is nothing else in San Francisco at this price point and square footage. In my work with a commercial real estate broker, the smallest comparable rental spaces we have found start at 250 square feet, and cost twice as much. There is very little inventory of micro-offices in San Francisco, and this lack of supply has been intensified by recent zoning changes on Mission Street.

Most landlords don't even rent out such small spaces, since it's the same amount of work to negotiate a lease for 100 square feet as it is for 20,000 square feet. Becoming a subtenant of a law firm or other larger office carries the risk of getting bumped as soon as the master tenant needed the space for one of their own employees.

I don't need the high-priced amenities bundled into the price of most "full-service" office buildings, such as a common kitchen, conference room access, shared printer and copier, and janitorial services. Part of what makes ActivSpace affordable is its bare-bones facilities: I have my own printer and mini-fridge, and empty my own trash.

- **Co-working does not work for all businesses:** Co-working can be ideal for startups, but I have an established business and need long-term stability and privacy. I currently have a fully enclosed office with a lockable door, where I can securely leave my computer and confidential files. My office is quiet, and I can write without visual distractions or noise. I have an ergonomic workstation with a large monitor and external keyboard, as well as a landline, which I need to record telephone interviews with optimal sound quality.
- **Working from home is not an option:** When I first started my business, I worked from home for three years, which was difficult living in a small studio. In 2016 I underwent an owner move-in eviction, and now rent an even smaller studio with only 350 square feet. It is not possible to operate my business out of my home. My housing costs also tripled, making it even more important to contain my business expenses.

I understand the importance of preserving affordable space for artists and makers in San Francisco. However, there is also a critical need for small, affordable offices in the city accessible to sole proprietors. We are important contributors to the economic and cultural diversity of the city's ecosystem. **I strongly urge you to broaden the scope of the proposed legislation to allow the handful of non-technology small businesses to apply for legitimization without undergoing mandatory discretionary review.**

If this is not possible, I respectfully request that you grant a fee waiver to make mandatory discretionary review a viable option. Failing both these options, please give tenants who will be evicted a one-year transition period to reduce the amount of disruption to our businesses.

Thank you for your consideration.

Sincerely,

Elizabeth Chur  
Communications & Grantwriting Consultant  
(415) 552-5370  
[elizabethchur@gmail.com](mailto:elizabethchur@gmail.com)

[Planning Code - Legitimization Program for Non-Residential Uses at 3150-18th Street]

**Ordinance amending the Planning Code to establish a legitimization program for certain non-residential uses at 3150-18th Street (Assessor's Parcel Block No. 3573, Lot No. 106); affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.**

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~Arial font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this determination.

(b) Pursuant to Planning Code Section 302, the Board of Supervisors finds that this ordinance will serve the public necessity, convenience, and welfare, for the reasons set forth in Planning Commission Resolution No. \_\_\_\_\_, and incorporates such reasons by this reference thereto. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_\_.

1 (c) On \_\_\_\_\_, the Planning Commission, in Resolution No. \_\_\_\_\_,  
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,  
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The  
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of  
5 the Board of Supervisors in File No. \_\_\_\_\_, and is incorporated herein by reference.

6 Section 2. Article 1.7 of the Planning Code is hereby amended by adding Section 192,  
7 to read as follows:

8 **SEC. 192. LEGITIMIZATION OF CERTAIN LAND USES AT 3150 18TH STREET.**

9 (a) **Intent.** The purpose of this Section 192 is to establish a time-limited program whereby  
10 existing land uses at 3150 18th Street (Assessor's Parcel Block No. 3573, Lot No. 106), which have  
11 operated without required permits, may be permitted notwithstanding the zoning controls imposed by  
12 Planning Code Section 210.3.

13 (b) **Legitimization Program for Certain Land Uses.** Any Non-Residential or PDR Use at 3150  
14 18th Street that otherwise is not permitted pursuant to Planning Code Section 210.3 may be established  
15 as a Legal Non-conforming Use, if it meets all of the following requirements:

16 (1) If the use is an Office Use, any building permit for such Office Use will be subject to  
17 Mandatory Discretionary Review by the Planning Commission;

18 (2) As of January 15, 2019, it was operating in that location;

19 (3) As of January 15, 2019, it had a lease with the owner of 3150 18th Street, or it had a  
20 written agreement with an entity who has such a lease with the owner to operate in that location; and

21 (4) Applications for all appropriate permits from any City or State agency to legalize  
22 the use are filed within 90 days of the effective date of this Section 192, and the applicant diligently  
23 pursues the permit(s) until they are issued.

24 (c) **Notice.**

1                   **(1) Notice by Planning Department.** *The Planning Department shall post notice of this*  
2 *legitimization program on its website to describe its contents and requirements in order to assist*  
3 *tenants at 3150 18th Street with participation in this program. The notice shall also inform the public*  
4 *about the uses principally and conditionally permitted in PDR-1-G Districts, as set forth in Planning*  
5 *Code Section 210.3.*

6                   **(2) Notice by Owner.** *The owner of 3150 18th Street shall provide written notice to any*  
7 *prospective tenant at this property about the uses principally and conditionally permitted in PDR-1-G*  
8 *Districts, as set forth in Planning Code Section 210.3, prior to entering into any lease with the tenant.*  
9 *The owner of 3150 18th Street shall also provide written notice to its current tenants at this property*  
10 *regarding the legitimization program established by this Section 192, and such notice shall specify the*  
11 *date on which this Section 192 will sunset under subsection (g).*

12                   **(d) Determination of Applicability.**

13                   **(1) Initial Determination.** *The Planning Department shall initially determine, through*  
14 *the review of a building permit, whether a land use at 3150 18th Street meets the conditions set forth in*  
15 *this Section 192. Evidence relevant to said determination may include, but is not limited to, the*  
16 *following: rental or lease agreements, building or other permits, utility records, business licenses,*  
17 *permit applications submitted by a tenant to a City or State agency, permits issued by a City or State*  
18 *agency, and tax records.*

19                   **(2) Monitoring and Reporting.** *To ensure that any Non-Residential Use continues to*  
20 *meet the conditions set forth in this Section 192, the owner of 3150 18th Street shall, upon request,*  
21 *provide the Planning Department with information about the uses at the property and copies of the*  
22 *written notices it has provided to prospective and current tenants under subsection (c)(2).*

23                   **(e) Limitation of Enlargement, Intensification, or Discontinuance.** *Enlargements,*  
24 *Intensifications, or Discontinuances of eligible uses that follow the legitimization program authorized*

1 by this Section 192 shall be subject to the relevant controls applicable under Sections 178, 181, 182,  
2 and 183 of this Planning Code.

3 (f) **Compliance with Other Requirements of the Planning Code.** Non-Residential Uses that  
4 follow the legitimization program authorized by this Section 192 shall comply with all applicable  
5 requirements of the Planning Code, other than those requirements from which they are specifically  
6 exempted under this Section 192, but such uses shall not be subject to any applicable impact fees  
7 imposed by Planning Code Article 4.

8 (g) **Sunset; Abandonment of Legitimized Uses.** Unless readopted, this Section 192 shall  
9 sunset ten years after its effective date. Upon such date, all Legal Non-conforming Uses established  
10 through this Section 192 shall lose such non-conforming status, and shall be considered abandoned  
11 pursuant to Section 183.

12 Section 3. No Retroactive Effect. This ordinance shall have no retroactive effect and  
13 does not forgive or waive enforcement of any violations that occurred prior to the ordinance's  
14 effective date.

15 Section 4. Effective Date. This ordinance shall become effective 30 days after  
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
18 of Supervisors overrides the Mayor's veto of the ordinance.

19  
20 APPROVED AS TO FORM:  
21 DENNIS J. HERRERA, City Attorney

22 By: \_\_\_\_\_  
23 ANDREW SHEN  
24 Deputy City Attorney

25 n:\legana\as2019\1900414\01355040.docx