



# SAN FRANCISCO PLANNING DEPARTMENT

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## Letter of Determination

March 2, 2017

Mr. Daniel Karten  
Artcan LLC  
2001 Tyler Street, Ste. 5  
Hollywood, FL 33020

**Site Address:** 199 New Montgomery Street  
**Assessor's Block/Lot:** 3722/083-256  
**Zoning District:** C-3-O(SD) (Downtown Office Special Development)  
**Staff Contact:** Nicholas Foster, (415) 575-6167 or [nicholas.foster@sfgov.org](mailto:nicholas.foster@sfgov.org)  
**Record No.:** 2017-002296ZAD

Dear Mr. Karten:

This letter is in response to your request for a Letter of Determination regarding the property ("Property") at 199 New Montgomery Street. This parcel is located in the C-3-O(SD) (Downtown Office Special Development) Zoning District, 150-S Height and Bulk District, and the Transit Center District and Downtown Plan Areas. Your letter requested a determination as to whether the Property meets the location-based requirements of the Planning Code ("Code"), such that a Medical Cannabis Dispensary (MCD) would be permitted at this location.

Per Code Sections 202.2(e) and 210.2, an MCD is considered to be an Institutional Use and is allowed as a principally permitted use at the Property. These Code sections stipulate a Mandatory Discretionary Review for the use with associated neighborhood notification and public hearing before the Planning Commission. Additionally, these sections include the following location-based requirements:

- (1) The parcel containing the MCD cannot be located within 1,000 feet from a parcel containing:
  - (A) a public or private elementary or secondary school; or
  - (B) a community facility and/or a recreation center that primarily serves persons under 18 years of age; and
- (2) The MCD is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health.

Based upon available information, it appears that the Property meets the location-based requirements as set forth in Planning Code Section 202.2(e)(1)(B). It should be noted that while Staff has determined that the subject property appears to meet the location-based requirements as set forth in Planning Code Section 202.2(e)(1)(B), there are a number of facilities located within 1,000' of the Property that provide child care services.

1650 Mission St.  
Suite 400  
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CA 94103-2479

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**415.558.6409**

Planning  
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Mr. Daniel Karten  
199 New Montgomery Street  
Hollywood, FL 33020

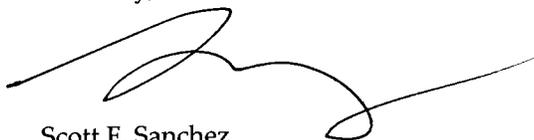
March 2, 2017  
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These facilities include: Bright Horizons at 2nd Street, located at 303 2nd Street (2nd floor); and Yerba Buena Gardens Child Development Center, located at 790 Folsom Street. While these facilities do not constitute a Community Facility, as defined by the Code, the facilities are nevertheless listed as a School Age Day Care Centers, by the California Department of Social Services.

**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

**APPEAL:** 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,



Scott F. Sanchez  
Zoning Administrator

cc: Nicholas Foster, Planner  
Juan Carlos Cancino, Office of Economic and Workforce Development  
Property Owner  
Neighborhood Groups  
BBN Requestor (if any)

Artcan LLC  
2001 Tyler Street  
#5  
Hollywood, FL 33020

R # 2017-002296 ZAD  
CK # 1010 \$ 664. -  
M. LUELLEN (NE)

February 16, 2017

Mr. Scott Sanchez, Zoning Administrator  
San Francisco Planning Department  
1650 Mission St, 4<sup>th</sup> Floor  
San Francisco, CA 94103

**RECEIVED**

**FEB 21 2017**

**CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
ZA OFFICE**

Re: Request for Written Determination: 199 New Montgomery Street

Dear Mr. Sanchez,

I am writing to explore the possibility of opening a Medical Cannabis Dispensary at 199 New Montgomery Street, Zoned C-3-O(SD), Downtown Office(Special Development) in San Francisco.

Section 790.141 of the San Francisco Planning Code states:

**The parcel containing the MCD cannot be located within 1,000 feet from a parcel containing: (A) a public or private elementary or secondary school; or (B) a community facility and/or a recreation center that primarily serves persons under 18 years of age.**

Section 790.141 of the San Francisco Planning Code also requires:

**The MCD is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health.**

Our team has performed a thorough search of the surrounding area and have not found any primary or secondary schools that primarily serve youth under the age of 18 within 1000 feet of the proposed site. Furthermore, the proposed site is not located on the same parcel as a facility providing substance abuse services that is licensed or certified by the State of California or funded by the Department of Public Health.

We are requesting clarification regarding **The Children's Creativity Museum and Creativity Theatre** located at 221 4<sup>th</sup> street. The buildings that house the museum and theatre are over 1000 feet away from 199 New Montgomery. However, the parcel that contains the Children's Creativity Museum & Creativity Theatre, along with several other facilities, is less than 1000 feet from the proposed location. This large parcel covers an entire city block, bordered by 3<sup>rd</sup> and 4<sup>th</sup> Streets and Howard and Folsom Streets. This parcel is dominated by Moscone Center South, and also includes Yerba Buena Square, Yerba Buena Ice Skating and Yerba Buena Bowling Center. We believe the spirit of the Planning code may allow for the evaluation of the entire parcel as one facility, and because this parcel includes Moscone Center South, it can be reasoned that the parcel does not primarily serve persons under 18 years of age. We believe that the use for this parcel should be determined based on the total use of the parcel, not on one facility within the parcel. Therefore, it is our interpretation that the Children's Creativity

Museum and Creativity Theatre do not violate the requirements of Section 790.141 of the SF planning Code.

Additionally, our search did yield the following facilities of note that we believe do not violate section 790.141 of the SF Planning Code and would therefore not preclude the proposed use of a medical cannabis dispensary at 199 New Montgomery Street:

**Bright Horizons:** Located at 303 2<sup>nd</sup> street this facility serves infants and toddlers through pre-K. Because they do not primarily serve youth K – 12, it is our interpretation that Bright Horizons does not violate the requirements of Section 790.141 of the SF planning Code.

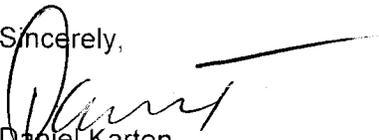
**San Francisco Department of Child Support Services:** Located at 617 Mission Street this administrative government facility handles child services and is not a child care facility. Therefore, it is our interpretation that San Francisco Department of Child Support Services does not violate the requirements of Section 790.141 of the SF planning Code.

**Trusted Child Care:** Located at 855 Folsom Street this facility is an agency that connects parents with care providers and does not provide care for children on site so it is our interpretation that Trusted Child Care does not violate the requirements of Section 790.141 of the SF planning Code.

I am therefore requesting a written determination as to whether 199 New Montgomery Street conforms to Planning Code Section 790.141 and would thus be an appropriate site for a new MCD.

Thank you for your assistance in clarifying this matter.

Sincerely,



Daniel Karten  
Founder, Artcan LLC  
Daniel@artcangroup.com  
Cell: 954.347.5611

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HOLLYWOOD, FL 33020-4566