



# SAN FRANCISCO PLANNING DEPARTMENT

## Letter of Determination

July 10, 2017

John Kevlin  
Ruben, Junius & Rose, LLP  
One Bush Street, Suite 600  
San Francisco CA 94104

<b>Site Address:</b>	333 Valencia Street
<b>Assessor's Block/Lot:</b>	3547/017
<b>Zoning District:</b>	Valencia St. Neighborhood Commercial Transit (NCT)
<b>Staff Contact:</b>	Linda Ajello Hoagland, (415) 575-6823 or <a href="mailto:linda.ajellohoagland@sfgov.org">linda.ajellohoagland@sfgov.org</a>

Dear Mr. Kevlin:

This letter is in response to your request for a Letter of Determination regarding the property at 333 Valencia Street. This parcel is located within the Valencia Street NCT (Neighborhood Commercial Transit) Zoning District, Mission Alcoholic Beverage Special Use District and 45-X/55-X Height and Bulk Districts. The request seeks a determination that the existing non-conforming office space was legalized as part of Building Permit Application No. 09102532, which was for the remodeling and upgrading the space to meet Building Code requirements as per the Zoning Administrator's Decision dated October 21, 1988.

### Background

On October 21, 1988, the Zoning Administrator approved Variance Case No. 88.321V to allow a reduction of the required off-street parking requirements for the building located at 333 Valencia Street, which was located in the Valencia Neighborhood Commercial (NCD) Zoning District. The variance was to allow a 7,850 square foot health club to locate on the ground floor of the building without providing the required off-street parking. The application also included the legalization of 22,655 square feet of office space on the second, third and fourth floors of the building that was stated to have been converted without proper permits by a previous building owner and without providing the required off-street parking. The Zoning Administrator granted approval of the variance to allow the health club to locate on the ground level of the building and to legalize the office space on the second, third and fourth floors without providing the required off-street parking to serve the office use, with the following conditions:

1. *That the applicant shall provide a minimum of 14 independently, accessible parking spaces on site.*
2. *That the applicant shall make available a minimum of 10 off-site parking spaces within 300 feet of the subject property for use by the members of Gold Gym after the house of 5:30 pm.*

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3. *That the available parking provided after 5:30 pm shall be provided for the duration of the use of the ground level of the subject property as a health club and if the health club is converted to another use, the code required parking shall be provided.*
4. *That the tenants of the subject office building with the exception of Gold Gym and the property owner's commercial space be limited to non-profit local serving organizations.*
5. *That the Zoning Administrator shall be notified of any change or alteration of the terms of the usage agreement between Arco Auto Shop and the property owner.*
6. *That the property owner shall file a Building Permit Application establishing the use of the subject property as office use with 22,655 square feet of occupied floor area, 7,551.5 square feet of accessory offices and 4,364 square feet of storage space.*
7. *That the property owner shall file a Building Permit Application establishing the use of the ground level of the subject property from 7,850 square feet of office use to a 7,850 square foot health club.*
8. *That in the event that the City is required to bring and prevails in a legal action to enforce the terms of this variance, the applicant or its successors and assigns shall pay to the City and City's costs and expenses incurred to enforce the terms of this variance, including a reasonable attorney's fee and expert witness fees.*
9. *That the applicant shall encourage transit use by employees by instituting the following procedures and programs:*
  - A. *Public transit promotion and provision of convenience services for use of public transit.*
    1. *The applicant shall sell public transit passes and tickets on-site monthly in locations convenient to employees.*
    2. *The applicant shall distribute transit route and schedule information on-site in locations convenient to employees with transit pass sales.*
  - B. *Alternatives to single occupancy automobile commute by employees shall be encouraged and facilitated.*
    1. *The applicant shall provide safe, secure facilities and locations for storage of bicycles, and is encouraged to provide safe, secure facilities and location for storage of scooters and/or motorcycles used by employees.*

The Variance Decision stated that *implementation of this variance will be accomplished by completion of construction work under the appropriate Building Permit Applications and issuance of the appropriate Certificate of Final Completion.*

### **Permit History**

The building at 333 Valencia Street was constructed in 1919 as a factory building for the San Francisco Casket Company. Based on the building permit records, the ownership and occupancy of the building changed sometime between 1957 and 1965 from the San Francisco Casket Company to Asiatic Trans Pacific, Inc. Beginning in 1965, building permits for improvements to the building were issued to Asiatic Trans Pacific, Inc., as follows:

- January 12, 1965:
  - Install a partition 20-feet long and 6'-8" high in present office and partitions from floor to ceiling in warehouse using 2" and 4" studs and 5/8 " sheetrock.
  - Present use of building: Office and Warehouse; Proposed use of building: Same
  - Approved by Planning Department on January 14, 1965
  
- August 10, 1965:
  - Erect six partitions. Total footage of all partitions approximately 75' x 10'. Construction to be 2 x 4 studs @ 16" centers. Fire blocked at approx. 5'-5/8" sheet rock both sides.
  - Present Use of building: Warehouse and Offices; Proposed use of building: Same.
  - Unclear if approved by Planning Department
  
- August 13, 1965:
  - Install partitions in present space to be used as offices.
  - Present use of building: Office and Storage; Proposed use of building: Offices
  - Approved by Planning Department on August 16, 1965
  
- September 3, 1965:
  - Additional restrooms 2<sup>nd</sup> and 3<sup>rd</sup> floors.
  - Present use of building: Office and warehouse; Proposed use of building: Office and warehouse
  - No Planning Department approval
  
- March 10, 1966:
  - Build a partition dividing office space using 2" x 4" studings and 5/8 sheetrock.
  - Present Use of building: Office; Proposed use of building: Office.
  - Unclear if approved off by Planning Department
  
- August 29, 1966:
  - Partitions using 5/8 sheetrock and 1-hour solid core doors with (*illegible word*).
  - Present use of building: Offices; Proposed use of building: Offices
  - Approved by Planning Department on September 2, 1966
  
- June 5, 1967:
  - Install new partitions 25 per plan 3<sup>rd</sup> floor.
  - Present Use of building: Warehouse and Offices; Proposed use of building: Same.
  - No Planning Department approval
  
- On November 15, 1988, a Notice of Special Restriction was recorded on the property for the aforementioned conditions of approval of Variance Case No. 88.321v by the Zoning Administrator on October 21, 1988.

- On November 18, 1988, Building Permit No. 08803521 was approved by the Planning Department for the tenant improvements related to the gymnasium approved per Variance Case No. 88.321v. The permit received final approval on June 20, 1989.
- On April 16, 1991, Building Permit No. 09102532 was approved by the Planning Department for the “remodeling of the 2<sup>nd</sup> and 3<sup>rd</sup> floors to satisfy code requirements and upgrade handicapped access; remove approximately 50’ gypsum partition. Building approximately 15’ partition (1-hour construction – 5/8” type X gypsum both sides of studs), upgrade elevator and third floor bathroom and handicapped accessibility.” The permit received final approval on February 21, 1992.

As you mentioned in your letter, following the issuance of the Building Permit No. 09102532, the project architect, Scott Neely, submitted a letter dated April 30, 1991 to verify that conditions of approval numbers 6 and 7 had been met as it related to the ground floor health club and legalization of the existing offices without a building permit for a Change of Use being required by the Department of Building Inspection or Planning, in which no response was received. A copy of said letter stamped “Received” by the Planning Department on May 13, 1991 was located in the Variance Case docket.

#### **Determination**

Based on the information provided in your request and via City permit records, it is my determination that the 22,655 square feet of office space in the building at 333 Valencia Street is a permitted use subject to the Conditions of Approval from Variance Case No. 88.321. The completion of the scope of work under Building Permit Nos. 08803521 and 0902532 to establish said uses (as per Conditions of Approval numbers 6 and 7), and the final approval of the permits by the City fulfilled the requirement for the “appropriate Certificate of Final Completion” required to implement the Variance, as per the Zoning Administrators decision on October 21, 1988. As such, said office uses shall be allowed to continue provided that there are no violations of the Notice of Special Restriction. It should be noted that the underlying Valencia Street NCT Zoning District does not allow general office uses. Any office uses permitted on the subject property must comply with the all Conditions of Approval outlined in the decision letter for Variance Case No. 88.321.

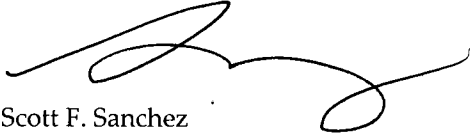
**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments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

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**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: Linda Ajello Hoagland, Planner  
Property Owner  
Neighborhood Groups