



# SAN FRANCISCO PLANNING DEPARTMENT

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## Letter of Determination

September 22, 2017

Tuija I. Catalano  
Ruben, Junius & Rose, LLP  
One Bush Street, Suite 600  
San Francisco CA 94104

**Site Address:** 855 Harrison Street  
**Assessor's Block/Lot:** 3761/002  
**Zoning District:** Service/Arts/Light Industrial (SALI)  
**Staff Contact:** Linda Ajello Hoagland, (415) 575-6823 or [linda.ajellohoagland@sfgov.org](mailto:linda.ajellohoagland@sfgov.org)  
**Record No.:** 2017-007834ZAD

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Dear Ms. Catalano:

This letter is in response to your request for a Letter of Determination regarding the property at 855 Harrison Street. This parcel is located within the SALI (Service/Arts/Light Industrial) Zoning District, Western SoMa Special Use District, 30-X Height and Bulk District and within ¼ mile of an existing Fringe Financial Service. The request seeks a determination to confirm that the pre-existing office use on the second floor of the property may continue under the current version of the Planning Code as a legal non-conforming use.

### Background

The subject property is a 32,386 square feet (sf) lot on Harrison Street between 4<sup>th</sup> and 5<sup>th</sup> Streets and contains a two-story building with approximately 26,800 sf on the ground floor and approximately 15,000 square feet on the second floor. The building was constructed in 1955 as "office and warehouse" for Glaser Brothers cigar distribution company, which occupied the building for many years. Since that time, the ground floor has been occupied by various retail and commercial tenants and the second floor has been leased to various unrelated office tenants. The property was zoned Light Industrial at the time that the building was constructed in 1955, which allowed "office" uses. In 1960, the zoning designation of the property was changed to M-1 (Light Industrial). In 1990, the zoning was changed from M-1 to SLI (Service/Light Industrial). In 2013, the zoning was changed from SLI to SALI. Both the SLI and SALI zoning districts generally prohibit office uses.

In 1988, the ground floor of the building was approved for a wholesale retail use (d.b.a. "Office Club"). In 2003, the space was taken over by Staples. In 2007, the Planning Commission approved a Conditional Use Authorization (Case No. 2007.0929C – Motion No. 17519) to allow a Formula Retail Use (d.b.a. "TJ Maxx") to operate on the ground floor location to replace Staples. The staff report and motion reference

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the building as containing one commercial use and one office use. In 2015, the K&L Wine Merchants replaced TJ Maxx as the ground floor retail tenant on the subject property.

Building Permit records and City Directories clearly indicate that Glaser Brothers occupied the office and warehouse building from 1955 to 1979 in which the second floor of the building possessed office use that was accessory to the warehouse on the ground floor. Leasing records dating from 1983 to present show that the upstairs office space in the building has been continually occupied by office uses since before the zoning was changed on the property in 1990.

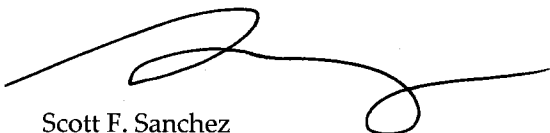
### Determination

Based on the information provided in your request and via City permit records, it is my determination that the second floor office space in the building at 855 Harrison Street is a legal non-conforming use and can continue to operate as such in accordance with Planning Code Sections 180 and 183. The entitlement and building permit history, along with leasing history, indicates that a principal, non-accessory, office use was legally established on the second floor of the Property prior to the rezoning from M-1 to SLI in 1990 and that office uses have continued to operate in the space since that time without any "discontinuance and abandonment" within purview of the Planning Code, thus making the office use legal non-conforming.

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