



LETTER OF DETERMINATION

July 13, 2021

Jim Abrams
J. Abrams Law, P.C.
One Maritime Plaza, Suite 1900
San Francisco, CA 94111

Record No.: **2021-001699ZAD**
Site Address: **145 Jefferson Street**
Assessor's Block/Lot: 0013 / 016
Zoning District: C-2 (Community Business)
Staff Contact: Michael Christensen - (628) 652-7567 or Michael.Christensen@sfgov.org

Dear Jim Abrams:

This letter is in response to your request for a Letter of Determination regarding the property at 145 Jefferson Street. The original request was submitted on February 18, 2021 and a supplemental request was submitted on June 11, 2020. The request seeks confirmation of the following: 1) whether a proposed cannabis museum, including museum tour space, exhibition cannabis growing and processing spaces, and a gift shop containing a licensed retail cannabis dispensary would be considered a General Entertainment use; and 2) whether the gift shop, containing a licensed retail dispensary selling cannabis products, would be subject to the location controls of Planning Code Section 202.2, specifically, the required 600-foot buffer between Cannabis Retail establishments.

DESCRIPTION OF PROPOSED CANNABIS MUSEUM USE

While detailed floor plans remain in the early stages of design, an updated conceptual-level description of the proposed use of the premises is described by floor below. Please note that floor plan markups and listed square footage approximations listed below were not prepared or reviewed by a professional designer (i.e. are not verified Gross Floor Area summaries), but instead are applicant-prepared figures intended to provide sufficient understanding of how the proposed Cannabis Museum would function and comply with Planning Code use regulations.

First Floor

In its existing condition, the premise's ground floor space contains approximately 7,000 square feet of open floor area. In the proposed Cannabis Museum layout, all visitors would enter on Jefferson Street, first walking into an approximately 1,500 square foot reception and lobby space, where visitors would check in and register, queue

for the beginning of a scheduled tour, and also view historical photos, artifacts, and informational displays about the Cannabis Museum's contents and purpose. The reception and lobby area would wrap around an approximately 3,600 square foot gift shop, which would be a fully licensed retail dispensary selling cannabis and cannabis products, including those grown and processed on-site. The gift shop would be open to the general public. However, its primary intent would be to serve as an end point for tours through the Cannabis Museum and items for sale would not be limited to cannabis and cannabis products, but would also include branded merchandise, books and periodicals pertaining to the cannabis industry and its history, and other items. The gift shop's size (representing approximately 15% of the premises overall floor area) is modeled on the size of analogous entertainment museum gift shops in the surrounding area, including the Aquarium of the Bay, San Francisco Dungeon, and Madam Tussauds. While exact building materials remain under review, the gift shop would be physically partitioned from the reception and lobby space, such that gift shop patrons would enter through a limited number of ingress/egress points.

Ticketed museum goers would enter the first tour area space (approximately 1,900 square feet), which would offer a glassed-in view of the dispensary and informational displays regarding the licensing and operation of dispensaries in San Francisco and California. The first-floor tour area would also lead to elevators and stairs leading to the second floor of the Premises.

A graphic markup of the first floor conceptual plan is shown in **Figure 1** below:

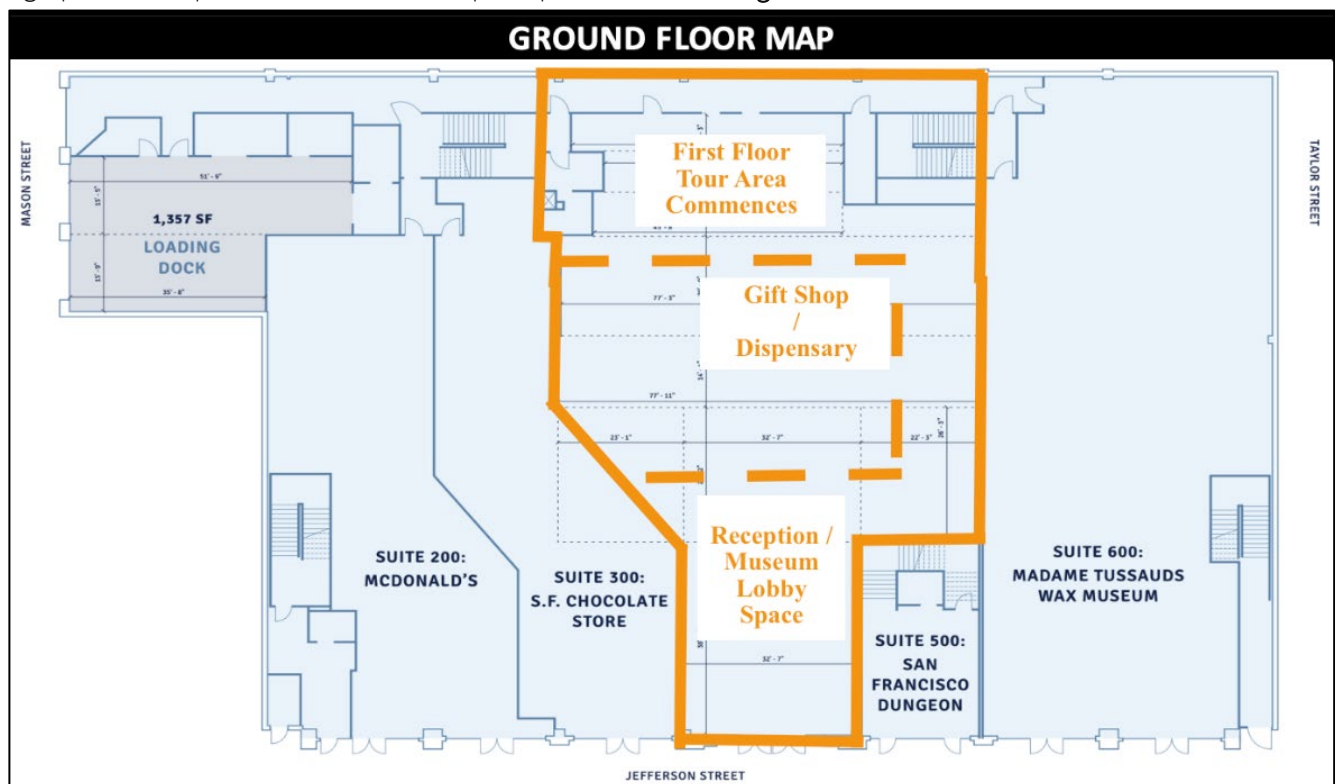


Figure 1: Conceptual floor plan for the first floor.

Second Floor

In its existing condition, the premise's second floor space contains approximately 12,260 square feet of floor area, with an existing approximately 2,500 square foot commercial kitchen on the Taylor Street side of the

Premises. In the proposed Cannabis Museum layout, visitors entering the second level would exit stairs and elevators into a large tour area, containing a small theater space (intended for informational movie displays, talking events, performances, etc.) and various informational displays and exhibits geared towards educating visitors on the basic elements of the history of cannabis, specifically cannabis in San Francisco and California.

The central tour area (approximately 10,460 square feet) would be anchored by two show rooms on either side of the space. On the Mason Street side of the second floor there would be an approximately 900 square foot indoor cannabis cultivation room separated by a glass wall, where visitors would be able to observe and learn about cultivation, including the standards and quality required in cannabis cultivation. Informational displays in the tour area near the cultivation show room would educate visitors on how cannabis is selected for its aromas and flavors. The show room would not be designed as an industrial-scale cultivation area intended to produce cannabis for off-site sale, but instead would be primarily designed and curated to educate visitors of the museum and produce cannabis products sold in the first-floor gift shop dispensary.

On the Taylor Street side of the second floor the existing commercial kitchen would be reduced in size to about 900 square feet and similarly be partitioned by a glass wall, with the kitchen area used to prepare and package edible cannabis products. Visitors would be able to observe kitchen activity from their side of the glass wall. The commercial kitchen area would not be used for extraction of cannabis flowers to create oil, but instead would prepare edibles from cannabis flowers grown and dried on site for sale in the gift shop dispensary.

A graphic markup of the second floor conceptual plan is shown in **Figure 2** below:

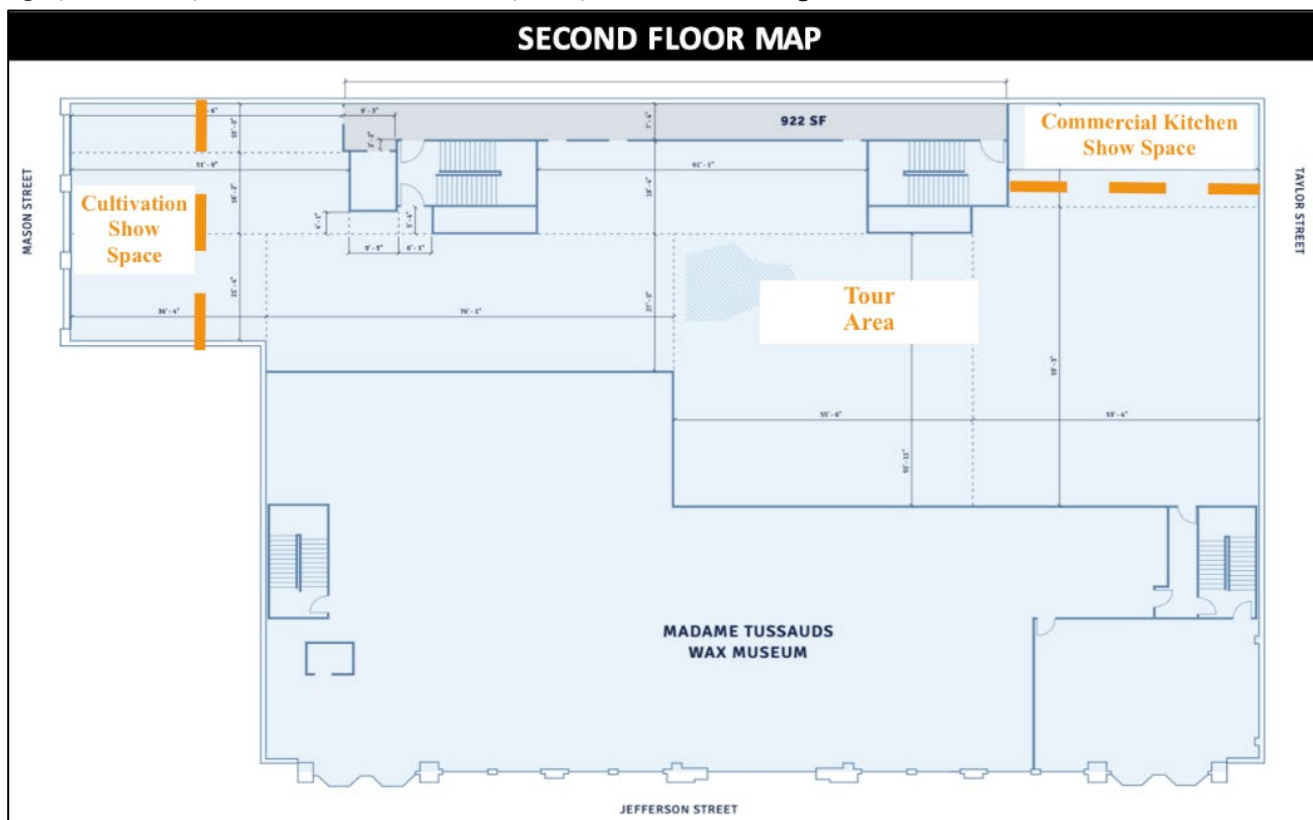


Figure 2: Conceptual floor plan for the second floor.

Third Floor

In its existing condition, the premises’ third floor space contains a total of approximately 4,960 square feet in two discrete spaces: an approximately 2,900 square foot open floor space and an approximately 2,060 square foot irregularly shaped floor area that offers views to the second floor area of the Premises below. In the proposed Cannabis Museum layout, the 2,900 square foot room would contain a show room space (approximately 610 square feet) for drying the cannabis flowers grown in the second-floor cultivation show room and then either packaged for sale in the gift shop dispensary or moved to the second-floor kitchen show room for cooking into edible cannabis products. The remainder of the 2,900 square foot room (approximately 2,290 square feet) would contain tour area (separated by a glass wall), where visitors could view into the drying room and read informational displays on the drying and packaging process. The noncontiguous 2,060 square foot space would be used for site administration (i.e. accessory office and storage).

A graphic markup of the third floor conceptual plan is shown in **Figure 3** below:

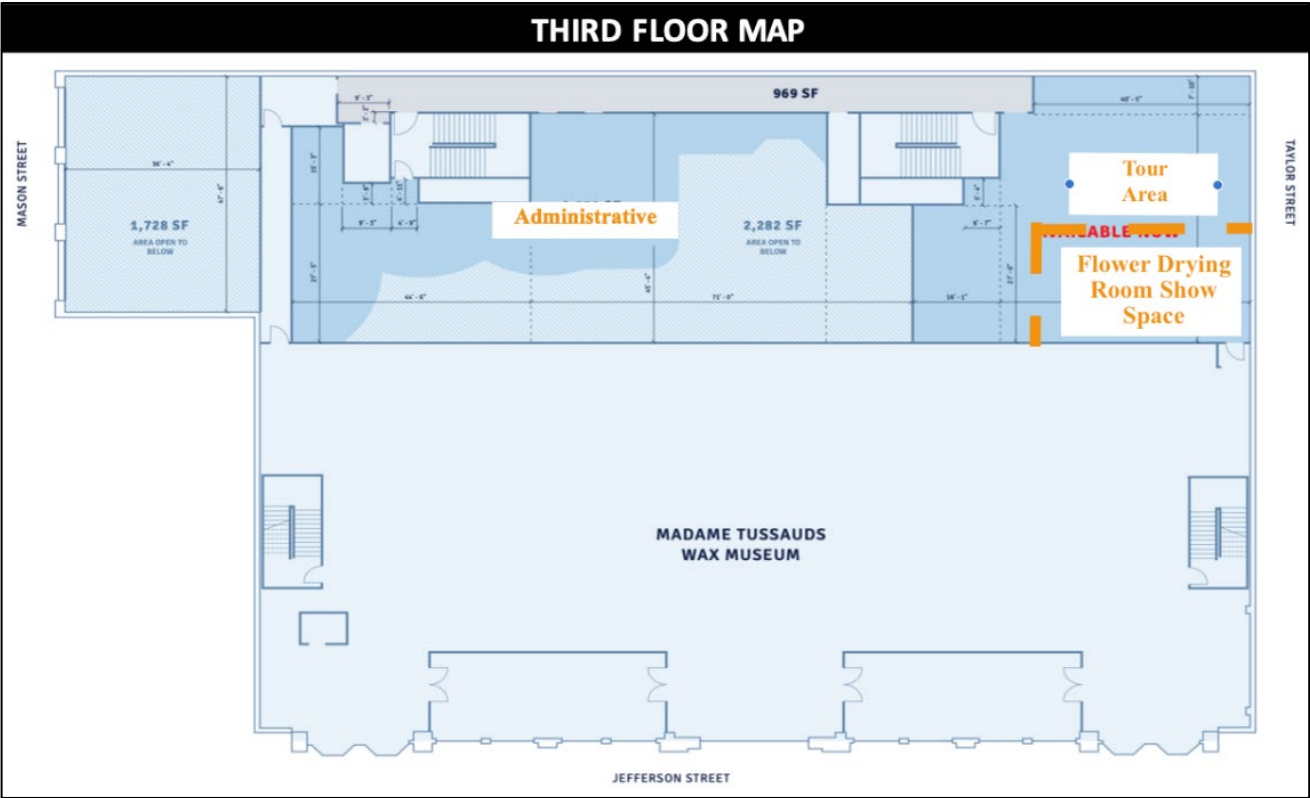


Figure 3: Conceptual floor plan for the third floor.

SUMMARY OF PROPOSED PLANNING CODE USES

Table 1 (below) summarizes the approximate principal and accessory use square footages proposed as part of the Cannabis Museum:

TABLE 1 SUMMARY OF PROPOSED PLANNING CODE USES		
Floor	Use	Approximate Square Footage
Floor 1	General Entertainment	7,000
	Principal General Entertainment	3,400
	<i>Accessory Cannabis Retail</i>	3,600
Floor 2	General Entertainment	12,260
Floor 3	General Entertainment	4,960
	Principal General Entertainment	2,900
	<i>Accessory Office and Storage Space</i>	2,060
Total	Retail General Entertainment	24,220

Planning Code Section 102 defines General Entertainment as:

“A Retail Entertainment, Arts and Recreation Use that provides entertainment or leisure pursuits to the general public including dramatic and musical performances where alcohol is not served during performances, arcades that provide eleven or more amusement game devices (such as video games, pinball machines, or other such similar mechanical and electronic amusement devices), billiard halls, bowling alleys, skating rinks, and mini-golf, when conducted within a completely enclosed building, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises. Mechanical amusement devices are further regulated in Sections [1036](#) through [1036.24](#) of the Police Code.”

Planning Code Section 102 defines Accessory Use as:

“A related minor Use that is either necessary to the operation or enjoyment of a lawful Principal Use or Conditional Use, or appropriate, incidental, and subordinate to any such use, and is located on the same lot.”

Planning Code Section 204.3(a)(1) stipulates that an accessory use cannot occupy more than one-third of the total floor area occupied by such use, any additional accessory uses, and the Principal or Conditional Use to which it is accessory, except in the case of accessory off-street parking or loading. Additionally, Planning Code Section 204.3(a)(3) states the following regarding Cannabis Retail as an accessory use:

*“**Limitations on Cannabis Retail Accessory Uses** The sale of cannabis as an accessory use is subject to any applicable limitations or regulations imposed by the Office of Cannabis. Cannabis Retail is not permitted as an Accessory Use unless the Cannabis Retail establishment holds a permit from the City’s Office of Cannabis specifically permitting Cannabis Retail accessory to another activity on the same premises.”*

DETERMINATION

Based on the information provided above, it is my determination that the proposed cannabis museum would be a use that principally provides entertainment and leisure to the general public and would generally meet the definition of General Entertainment. The proposed accessory uses represent 23.4% of the total floor area, of which approximately 15% would be devoted to the gift shop containing the accessory cannabis retail use. In order to ensure the accessory uses are incidental and subordinate to the principle General Entertainment use,

the following provisions must be met: 1) the growing and manufacturing of cannabis products on-site is principally conducted as an exhibition for the entertainment and view of the general public and not for the production of cannabis for distribution to other facilities, and 2) the proposed gift shop, conducting adult use sales of cannabis products, is not signed or marketed separately from the museum activity and is not open for sales when the museum activity is not in operation.


Please note that the Office of Cannabis has not yet formally established a permit for accessory cannabis retail. Therefore, such a permit must be created, and the business must obtain such a permit demonstrating that the accessory cannabis retail is accessory to another activity on the same premises, before an accessory cannabis retail use may be authorized under the Planning Code.

If the criteria above are met, then the cannabis retail activity within the proposed museum is considered an accessory use at the site and is not subject to Planning Code requirements applying to Cannabis Retail as a Principal or Conditional use. This includes the location requirements prescribed in Planning Code Section 202.2 (e.g. 600-foot buffer). If the criteria above are not met, then the sale of cannabis on-site may only be conducted as a separate Principal or Conditional use and would be subject to the location requirements prescribed in Planning Code Section 202.2. As of the writing of this letter, any principal Cannabis Retail use at 145 Jefferson Street would not be compliant with the location standards of Section 202.2 because it is within 600 feet of 2627 Taylor Street, which contains a Cannabis Retail use licensed by the Office of Cannabis.

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: An appeal may be filed with the Board of Appeals within 15 days of the date of this letter if you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator. Please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475, call (628) 652-1150, or visit www.sfgov.org/bdappeal.

Sincerely,



Corey A. Teague, AICP
Zoning Administrator

cc: Property Owner
Neighborhood Groups
Michael Christensen, Senior Planner
Claudine Asbagh, Principal Planner, NE Quadrant