



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

January 30, 2017

Steven L. Vettel
Farella Braun + Martel, LLP
The Russ Building
235 Montgomery Street
San Francisco CA 94104

Site Address:	1522 Bush Street
Assessor's Block/Lot:	0666/006
Zoning District:	RC-4 (Residential-Commercial, High Density) Van Ness Special Use District
Staff Contact:	Sara Vellve, (415) 558-6263 or sara.vellve@sfgov.org
Record No.:	2017-000305ZAD

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

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415.558.6377

Dear Mr. Vettel:

This letter is in response to your request for a Letter of Determination regarding the property at 1522 Bush Street. This parcel is located in the RC-4 (Residential-Commercial, High Density) Zoning District, Van Ness Special Use District, Van Ness Automotive Special Use District, and 80-D Height and Bulk District. The request is to convert the two-story over basement, approximately 13,400 square foot defunct automotive garage and repair shop to a clinic with accessory uses for Planned Parenthood. You seek determinations on the following topics:

1. That the proposed use of the property is considered to be a Health Service Use as defined in Planning Code Section 102, where it is described as a Retail Sales and Service Use; and
2. That ancillary educational and administrative functions would be considered as accessory uses to the principal Health Service Use; and
3. That the proposed Health Service Use is permitted as-of-right on the ground and basement floors, and allowed with Conditional Use Authorization on the second floor.

The proposed project represents the consolidation of services conducted by Planned Parenthood Northern California, San Francisco into one approximately 13,400 square foot, two-story over basement building that covers the entire subject lot. Health services to be conducted on the premises include: STD/HIV testing and counseling, PrEP and nPEP, full family planning services including abortion, vasectomy, contraception and infertility counseling for low-income women, and general counseling services for low-income men and women. Related activities include clinical support, research and educational functions, and clinician and administrative offices.

Based on the information provided, the services would be distributed throughout the building in the following manner:

- Basement (±2,250sf): Mechanical & storage.
- First/Ground Floor (±5,573sf): Reception & waiting, executive & staff offices, conference & training, restrooms, break room, storage. Approximately 1,300 square feet of accessory offices and common areas are located on this floor.
- Second Floor (±5,597sf): Reception & waiting, lab, counseling, exam, restrooms, staff office, recovery, storage, lockers.

Planning Code Section 102 defines a Health Service Use as *“A Retail Sales and Service Use that provides medical and allied health services to the individual by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists, chiropractors, or any other health-care professionals when licensed by a State-sanctioned Board overseeing the provision of medically oriented services. It includes a clinic, primarily providing outpatient care in medical, psychiatric, or other health services, and not part of a Hospital or medical center, as defined by this Section of the Code.”*

Based on the information provided in your letter, the services and activities to be conducted at the subject property by Planned Parenthood are consistent with the definition of Health Service Use.

Two sections of the Planning Code are relevant to determine if the ancillary uses qualify as accessory uses. Planning Code Section 204.1 through 204.5 define an accessory use as:

- (a) *Necessary to the operation or enjoyment of a lawful principal or conditional use; or*
- (b) *Appropriate, incidental and subordinate to any such use.*

Planning Code Section 204.3(a) does not permit accessory uses in RC Districts that involves or requires any of the following:

- (1) *Use of more than one-third of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory off-street parking or loading; or*
- (2) *Any noise, vibration, or unhealthful emissions extending beyond the premises of the use.*

Based on plans and narrative submitted for review, it appears that the related offices and a reception and waiting room on the first (ground) floor are approximately 1,300 square feet, which do not exceed one-third of the overall Service, Health use of approximately 13,500 square feet. The proposed medical use would not include activities creating noise, vibration or unhealthful emissions extending beyond the premises of the use. It is therefore my determination that the ancillary offices and public spaces are consistent with Planning Code Sections 204 and constitute accessory uses.

Table 209.3 indicates that a Health Service Use is permitted in the RC-4 Zoning District as a Retail Sales and Service Use.

Per the plans and narrative submitted for review, the main clinical activities would be conducted on the second floor to promote the safety and security of patients. The remaining office, meeting, reception and waiting, and ancillary uses would be located on the ground/first floor. Planning Code Section 209.3 indicates that a Retail Sales and Service Use (of which the Service, Health use is considered) is principally permitted on the ground floor and below and would require Conditional Use Authorization if located on

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Letter of Determination
1522 Bush Street

the second floor. Therefore, it is my determination that the proposed use would be allowed as-of-right on the ground floor and below and would require Conditional Use Authorization if located on the second story.

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: Sara Vellve, Planner
Property Owner
Neighborhood Groups



**FARELLA
BRAUN + MARTEL LLP**

STEVEN L. VETTEL
svettel@fbm.com
D 415.954.4902

December 30, 2016

R# 2017-000305 ZAD
CK 595502 \$ 664. -
D. LINDSAY (NW)

Via Hand Delivery

Scott Sanchez
Zoning Administrator
San Francisco Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Re: 1522 Bush Street (Assessor's Block 0666, Lot 066)
Request for Letter of Determination regarding proposed Planned Parenthood
Health Service use

Dear Mr. Sanchez:

I am writing on behalf of Planned Parenthood Northern California ("PPNorCal") to request a Letter of Determination concerning the property at 1522 Bush Street in San Francisco (the "Property"). The Property is an existing approximately 13,400 square foot, two-story over basement building located on a 6,000 square foot parcel in the Van Ness Corridor within a few blocks of the new CMCP campus. The Property was previously occupied by an automotive garage and repair shop, but has been vacant for a few years. PPNorCal is currently under contract to acquire the Property and redevelop the existing building into a two-story Health Service clinic (the "Project").

We seek your determination that (1) the proposed uses of the Property are encompassed within a single Health Service use, with any ancillary educational and administrative functions being accessory to the principal Health Service use, and (2) the proposed Health Service use is permitted as of right on the ground floor and basement and via a conditional use authorization on the second floor. The Health Service use will also require a Health Care Services Master Plan consistency determination by the Planning Commission, pursuant to Planning Code Section 342.5, because it is larger than 10,000 gross square feet.

Factual Background. PPNorCal currently operates two clinical facilities in San Francisco in leased premises. To improve access to the San Francisco community, PPNorCal proposes to purchase the Property and consolidate its medical, research and educational activities at this single clinic location. The Project will address the critically unmet family planning service needs of the City, while also acting as a nexus for strategic innovation, research and policy development. Among the many health services the Project will offer are: STD / HIV testing and counseling, PrEP and nPEP, full family planning services including abortion (surgical

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SAN FRANCISCO ST. HELENA www.fbm.com

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and medical), vasectomy, contraception (emergency and routine) and infertility counseling for low-income women, and general counseling services for low-income men and women.

Health Service and Their Accessory Uses are Principally and/or Conditionally Permitted in the RC-4 District. The Property is located within the RC-4 zoning district and the Van Ness Special Use District. Pursuant to Planning Code Section 209.3, a Health Service is a principally permitted Retail Sales and Services Use on the ground floor and below and a conditional use on the second floor in the RC-4 district. No restrictions associated with the Van Ness Special Use District in Section 243 affect this proposed reuse of an existing commercial building.

Section 102 of the Planning Code defines Health Service as follows:

Service, Health. A Retail Sales and Service Use that provides medical and allied health services to the individual by physicians, surgeons, dentists, podiatrists, psychologists, psychiatrists, acupuncturists, chiropractors, or any other health-care professionals when licensed by a State-sanctioned Board overseeing the provision of medically oriented services. It includes a clinic, primarily providing outpatient care in medical, psychiatric, or other health services, and not part of a Hospital or medical center, as defined by this Section of the Code.

Section 204 defines an accessory use as follows:

Subject to the limitations set forth in this Code, and especially as specified in Sections 204.1 through 204.5, a related minor use that is either (a) necessary to the operation or enjoyment of a lawful principal use or conditional use; or (b) appropriate, incidental, and subordinate to any such use.

Section 204.3 establishes the maximum percentage of floor area for an accessory use in an RC district as follows:

Commercial and Residential-Commercial Districts. No use shall be permitted as an accessory use to a lawful principal or conditional use in any Commercial or Residential-Commercial District which involves or requires any of the following:

- (1) The use of more than one-third of the total floor area occupied by such use and the principal or conditional use to which it is accessory, except in the case of accessory off-street parking or loading; or
- (2) Any noise, vibration, or unhealthful emissions extending beyond the premises of the use.

The Project Consists of A Single Health Service Use. As detailed in the attached space plan that PPNorCal's architect has developed, the proposed uses all fall within the definition of Health Service and related minor uses that are necessary to the operation of the Health Service.

For safety and security purposes explained below, the Project proposes to locate the primary patient treatment facilities on the second floor, including the surgical suites, recovery room, and examination and counseling rooms. The majority of intake and triage will occur in the counseling rooms, with procedures, examinations, and other private clinical services taking place within the examination rooms. All of the second floor uses are principally clinical and Health Service uses, with no accessory uses proposed on that floor. Similarly, the basement level will be used for Health Service building service uses, such as an HVAC system and storage space. Thus all of the basement level uses are principally Health Service uses as well.

The Project proposes to house clinical support, research and educational functions, including conference and training rooms, break rooms and accessory offices for clinicians on the ground floor, all directly related to the clinical and research work performed on-site. Specifically, the ground floor clinician / clinical offices and phone room will be used by the PPNorCal staff, doctors and other medical professionals to relay necessary information to patients either over the phone or in person, including test results and/or information related to prescribed medications, and to review and analyze specific patient records and files. The clinical research and training conference rooms will be used to discuss ongoing research work and specific cases and/or patients, as well as training on various aspects of health services. Other uses, such as the break room, IT room, janitorial/trash room and closets are building service uses necessary to the functioning of the clinic and part of the overall Health Service use.

As noted above, the partial basement space would be occupied by Health Service support functions, such as HVAC equipment and storage.

Of the uses on the ground floor, the Project proposes only a limited amount of floor area for functions that may be considered accessory to the principal Health Service use. Those accessory spaces include: (1) the reception area; (2) the Educator, Director of Communications and Marketing, and a single Executive office; and (3) the External Affairs work space. These uses are encompassed by Planning Code Section 204, in that they are "minor" and either "(a) necessary to the operation or enjoyment of a lawful principal use or conditional use; or (b) appropriate, incidental, and subordinate to any such use." None of these related uses would involve noise, vibration or unhealthful emissions beyond the premises. Specifically, the reception area is necessary to the operation of the entire clinic, both ground floor and second floor, while the offices and work space are incidental and subordinate in size and scope to the primary clinical functions, and appropriate given their function of promoting and supporting the ongoing clinical and other Health Service uses on-site. In total, these accessory uses encompass less than 25% of the total floor area occupied by the Health Service use, in compliance with Planning Code Section 204.3.

PPNorCal would maintain its main office and administrative activities (executive staff, human resources, accounting, billing, development, information technology etc.) at its existing office in Concord.

We seek your determination that the proposed uses of the Property, as outlined here and in the attached, are encompassed within a single Health Service use, with any educational and administrative functions being accessory to the principal Health Service use.

Primary Medical Services Must Be Located on the Second Floor as a Conditional Use. The safety and security of clinical staff and patients is of utmost importance to PPNorCal, particularly given the well-documented history of protest and even violence outside PP clinics – including PPNorCal clinics in the City and beyond. For this reason, it is critically important for the Project’s major clinical functions, such as surgical and other medical procedures and examinations, to be located on the second floor. This location is less susceptible to intrusion or other unwelcome, unsafe and/or disruptive behavior than the ground floor, and will provide a safety barrier that is needed for the clinic to function properly. We also seek your confirmation that such Health Service uses are permitted via a conditional use authorization on the second floor. Health Care Services Master Plan consistency determination is also required for the proposed Health Service use because it exceeds 10,000 gross square feet.

Attached is the Letter of Determination fee in the amount of \$664. Given PPNorCal’s short due diligence period and the amount of time a conditional use authorization can take to advance to the Planning Commission, should you agree with this request, PPNorCal is respectfully requesting that this determination be made as soon as possible. Please let us know if we can provide any further information.

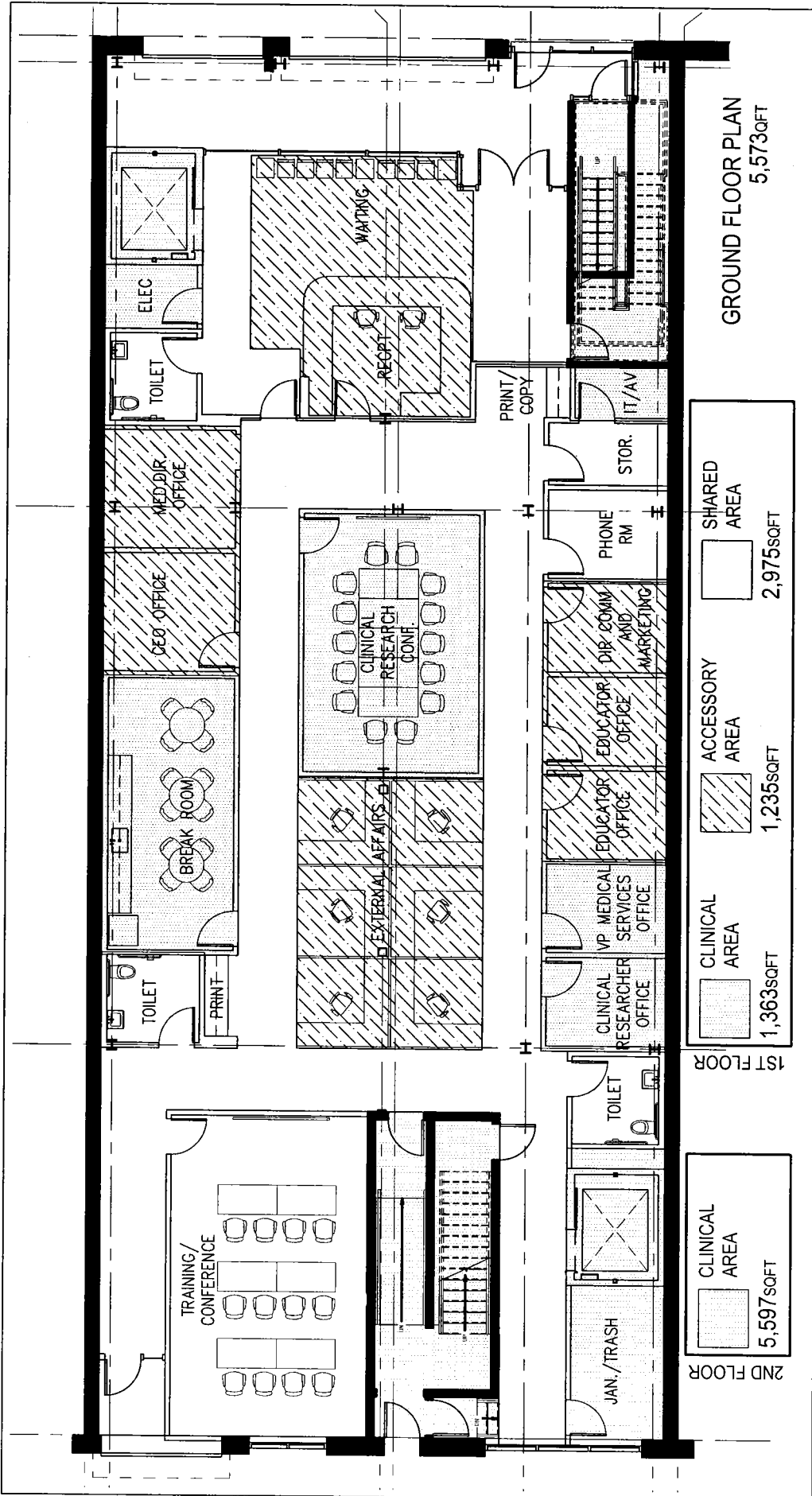
Very truly yours,



Steven L. Vettel

SLV:llc

cc: Ashley E. Breakfield
Deborah Sorondo, PPNorCal



GROUND FLOOR PLAN
5,730qft

CLINICAL AREA	1,363sqft	ACCESSORY AREA	1,235sqft	SHARED AREA	2,975sqft
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CLINICAL AREA	5,597sqft
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SMITHGROUP JJR

301 BATTERY STREET
7TH FLOOR
SAN FRANCISCO, CA 94111
415.227.0100
www.smithgroupjrr.com

ARAS STUDY- GROUND FLOOR
DRAWING TITLE

PLANNED PARENTHOOD
PROJECT NAME

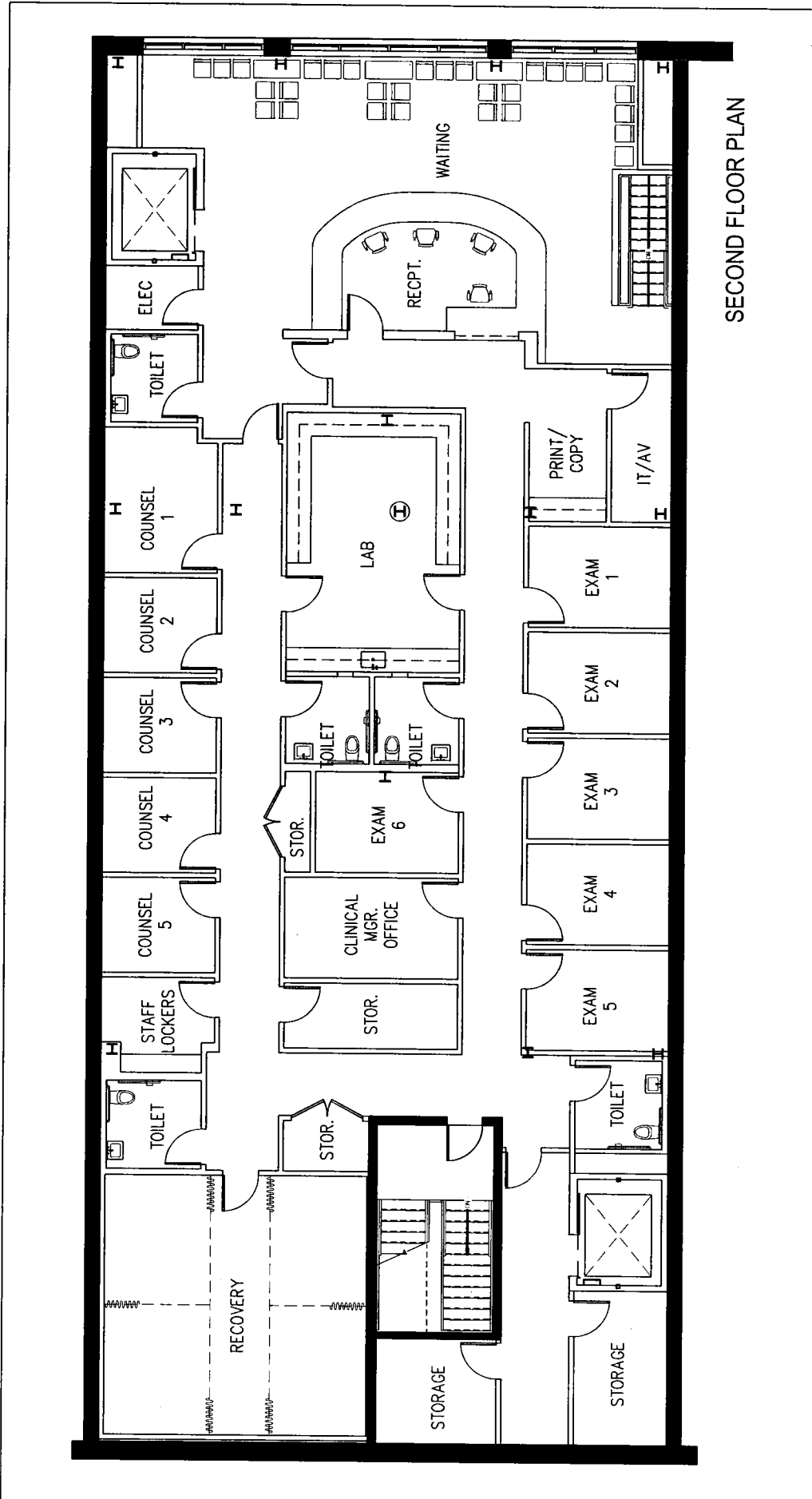
28 DEC. 16
DATE

1255 BUSH STREET
DRAWING REFERENCE

1/8" = 1'-0"
DRAWING SCALE

21519.002
PROJECT NUMBER

AS-01_R2
DRAWING NUMBER



SECOND FLOOR PLAN

SMITHGROUP JJR
 301 BATTERY STREET
 7TH FLOOR
 SAN FRANCISCO, CA 94111
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 www.smithgroupjjr.com

TEST FIT PLAN - SECOND FLOOR
 DRAWING TITLE

1255 BUSH STREET
 DRAWING REFERENCE

PLANNED PARENTHOOD
 PROJECT NAME

1 DEC 16
 DATE

21519.002
 PROJECT NUMBER

TF-02 B
 DRAWING NUMBER

1/8" = 1'-0"
 DRAWING SCALE