

**From:** Nan Madden [nan\_madden@yahoo.com]  
**Sent:** Thursday, January 01, 2015 10:46 PM  
**To:** BOS Legislation (BOS)  
**Subject:** Hookah Lounge on Ocean Avenue

**Categories:** 141291

To Whom It May Concern,

As the former director of the Pediatric Asthma Clinic at San Francisco General Hospital and as a concerned citizen I am writing this letter to ask you to not allow the opening of the vape shop/steam stone hookah shop at 1963 Ocean Avenue. I understand that the shop would be a location where people could gather and smoke hookah pipes and electronic cigarettes.

It is a well-known fact that smoke is a common trigger for asthma attacks, and, according to the American Lung Association (ALA), evidence shows that hookah smoking carries many of the same health risks and has been linked to many of the same diseases caused by cigarette smoking. Hookah tobacco often is flavored to mask the harshness of smoking, which makes its use more attractive to young people. Although hookah smoking is most common in the United States among young adults ages 18 to 24 it is also used by middle and high school students. It is possible that hookah smoking may lead to other forms of tobacco use. With the very high prevalence of asthma among the youth in San Francisco we should be doing all we can to discourage the use of all forms of tobacco and tobacco mixtures.

According to the ALA there is no scientific evidence establishing the safety of e-cigarettes. In fact, the initial laboratory test performed by the U.S. Food and Drug Administration found that two leading brands of e-cigarettes contained detectable levels of toxic cancer-causing chemicals, including an ingredient used in anti-freeze. In addition, there is no evidence that shows the vapors emitted by e-cigarettes are safe for non-users to inhale. As with hookah tobacco, e-cigarettes are available in flavors that appeal to children and teens such as bubble gum and chocolate.

I believe that the smoking of both hookah pipes and e-cigarettes should be discouraged as much as possible in all neighborhoods in San Francisco. However, the location of the proposed shop on Ocean Avenue is particularly undesirable because it is almost across the street from Aptos Middle School and is within walking distance from Balboa and Lowell High Schools, City College of San Francisco and San Francisco State University.

Please take a stand for the health and safety of the residents of San Francisco, particularly the youth, by voting against the opening of this shop. Thank you for your time and concern.

Nanette Madden, MS, PNP  
Associate Clinical Professor  
UCSF School of Nursing

.....n (BOS)

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**From:** James H Spalding Jr. [cpaspalding@gmail.com]  
**Sent:** Thursday, January 01, 2015 10:01 PM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Cc:** rckaris@gmail.com  
**Subject:** No Vape Shop on Ocean Avenue  
  
**Categories:** 141291

Planning Commission decision in Case No. 2014.0206C

(Letter opposing the vape shop at 1963 Ocean Ave.) Planning Commission

As a local resident – 180 De Soto Street – I strenuously oppose a vape or smokers shop on Ocean Avenue.

As an ex-smoker – three packs a day – any encouragement of smoking is medically and morally wrong. It is a filthy habit that the Surgeon General nixed over 50 years ago. If someone lights up on the street, I have to walk on the other side. I was having coffee yesterday and a guy lit up. On his first exhale I had to remind him you couldn't smoke in front of a store....

Please, this is not a not in my back yard letter. It not in any one's back yard.

(BOS)

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**From:** creps4@aol.com  
**Sent:** Thursday, January 01, 2015 8:59 PM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** Vape Shop on Ocean Avenue  
**Categories:** 141291

Dear San Francisco leaders,

I am writing to support the appeal of the Planning Commission's authorization of the Conditional Use for the proposed vape shop at 1963 Ocean Avenue. Have you seen the 1900 block of Ocean and then looked at the surrounding neighborhoods? This block of Ocean is surrounded by lovely, expensive family homes. Why are you allowing "adult" massage parlors as well as tattoo parlors, a marijuana dispensary and an alcohol serving billiard hall on this block which also includes a Christian school? Our family goes to the Fog Lifter Cafe every week, has bought two bicycles at the Ocean Cyclery and had clothes altered at the sewing shop. We need businesses like these that serve the people of our neighborhood, not those that serve to drive away people who might be attracted to our family-friendly stores.

Vape shops will help to get our young people hooked on this nicotine laden product. Would you like a shop like this around the corner from your home tempting your adolescent children? Are you aware that Aptos Middle School, Lick Wilmerding and Riordan High Schools are also located along Ocean Avenue?

Sincerely,

Adrienne Sciutto

1 (BOS)

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**From:** creps4@aol.com  
**Sent:** Thursday, January 01, 2015 8:29 PM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** Vape Shop on Ocean Avenue

**Categories:** 141291

883 Urbano  
San Francisco,  
94127

Dear Supervisors:

This letter is written to support the appeal of the Conditional Use Authorization for the 1963 Ocean Ave. Case No. 2014.0206c, a Vape Shop/ Steam Stone Hookah Lounge. This E-cigarette business is not necessary or desirable in our Ingleside neighborhood. On the 1900 Ocean Ave. block we have some very successful businesses- a bike shop and the Fog Lifter Restaurant to name two. We need more like these.

Are e-cigarettes completely safe and therefore a desirable business for the 1900 Ocean Ave. block located near Aptos Middle School? There is not enough data to say that e-cigarettes are completely safe, and there is some data that says they are not.

The New York Times is having a series of articles on e-cigarettes. The Centers for Disease Control and Prevention issued results of its latest National Youth Tobacco Survey. E-cigarette smoking among high school students has tripled in 2013-2014 to

4.5%. The Campaign for Tobacco-Free Kids has called for regulating e-cigarettes. (1) NY Times, Nov.28,2014. The World Health Organization urges stronger Regulation of e-cigarettes. (2) NY Times, Aug. 26, 2014. A Clinical Cancer Research study finds that the vapor from e-cigarettes damages human cells in much the same way as the smoke from traditional cigarettes. (3) Consumer Affairs 4/11 2014. A UCSF study found adolescents who use e-cigarettes are more likely to smoke cigarettes and less likely to quit smoking tobacco cigarettes. (4) Consumer Affairs 3/06/2014. The latest article in the new York Times is titled , "Race to deliver Nicotine's Punch,With Less Risk" , Christmas Day, Dec. 25, 2014. "Within seconds of taking a drag, a smoker feels the nicotine's soothing effects because compounds that are produced when tobacco burns are perfectly sized to carry nicotine deep into the lungs allowing the drug to quickly reach the brain. Those same compounds, which are collectively known as tars, also cause cancer and diseases. By comparison, the type of vapor generated by e-cigarettes, experts say, is a less efficient carrier of nicotine than smoke....As a result, e-cigarette users have frequently turned to larger devices known as vape pens that have bigger batteries that can produce more heat. But more heat to increase nicotine levels may also result in higher levels of toxins and carcinogens, experts say. Tobacco companies have rushed to increase nicotine levels in their vapor devices."

Thank you,  
Irene Creps  
Retired biology teacher  
415 587-3313

(BOS)

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**From:** norma tannenbaum [n\_tannenbaum@sbcglobal.net]  
**Sent:** Thursday, January 01, 2015 11:57 AM  
**To:** BOS Legislation (BOS)  
**Subject:** Letter supporting the appeal of Planning Commission decision in Case No.

**Categories:** 141291

-----Original Message-----

**From:** MAILER-DAEMON@yahoo.com [mailto:MAILER-DAEMON@yahoo.com]  
**Sent:** Thursday, January 01, 2015 11:53 AM  
**To:** n\_tannenbaum@sbcglobal.net  
**Subject:** Failure Notice

Sorry, we were unable to deliver your message to the following address.

Letter supporting the appeal of Planning Commission decision in Case No.  
2014.0206C  
(Letter opposing the vape shop at 1963 Ocean Ave.)

Dear Board of Supervisors:

I have been a SF resident since 1969 and have lived in Ingleside Terraces for the last 15 years. Since the renovation of the Muni tracks, I have seen some positive changes taking place on Ocean Avenue and I have begun to patronize several of the businesses on a regular basis especially CVS, Fruit Barn, Fog Lifter cafe, Whole Foods etc. I am sending this email to oppose the vape shop which will sell e-cigarettes and will operate a hookah lounge at 1963 Ocean Avenue.

I will refer to some of the "Findings" in the Final Motion of the Planning Commission on 11/6/14. I am appealing to the Board of Supervisors and to Norman Yee for the following reasons:

Section 7.A. (page 4) states:

The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

I do not agree that the proposed development will be "necessary and desirable". The purpose of this business is to sell e-cigarettes. Ocean Avenue needs businesses that will serve the residents of surrounding areas. It's hard to support the idea that selling e-cigarettes is "necessary and desirable". For those who are trying to break the habit of smoking regular cigarettes, e-cigarettes might be 'desirable' but these cigarettes can be obtained at other places on Ocean Avenue such as the 7-Eleven at 2000 Ocean Avenue which sells both cigarettes and e-cigarettes. It is also true that these cigarettes can be smoked in privacy as opposed to establishing a public place for an activity with health effects that are not yet known.

Also, one of the important criteria for establishing a new business is whether or not it has the potential to bring customers from outside the immediate area in the hopes that they will patronize several of the establishments in a particular business corridor. It seems unlikely that people who come to the vape lounge will also be interested in other business

establishments, especially since they will be frequenting the vape shop after "regular" business hours.

Section 7.E. (page 6) of the Final Motion states:

The concentration of such establishments in the particular zoning district for which they are proposed does not appear to contribute directly to peace, health, safety, and general welfare problems

1963 Ocean Avenue is 130 feet from the Voice of Pentecost Academy.

Ocean Avenue has 8 businesses with tobacco sales permits in less than 3,600 feet, totaling one store selling tobacco products every 450 feet! All 8 sell cigarettes; five also sell e-cigarettes.

The proposed new establishment at 1963 Ocean Avenue is 350 feet from the 7-Eleven and less than 400 feet west of a small store on Ashton that sells cigarettes.

More tobacco outlets leads to more consumption of tobacco products, which is detrimental to the health and welfare of this area.

Thank you in advance for considering my comments and I hope that the Board of Supervisors will deny the Conditional Use Applications for 1963 Ocean Avenue.

Yours truly,  
Norma Tannenbaum  
535 Urbano Drive  
San Francisco, CA 94127

1 (BOS)

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**From:** Nancy Katsuranis [njcatt47@yahoo.com]  
**Sent:** Wednesday, December 31, 2014 3:25 PM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** Appeal case number 2014.0206C, 1963 Ocean Avenue.

**Categories:** 141291

I am writing this letter to support the appeal of the Conditional Use Authorization for 1963 Ocean Avenue and to oppose the opening of the vape shop/steam stone hookah lounge at 1963 Ocean Avenue. The appeal case number is 2014.0206C, 1963 Ocean Avenue.

I strongly object to the establishment of a vape shop/steam stone hookah lounge at 1963 Ocean Avenue.

As an asthmatic and parent of an asthmatic this issue is very personal to me. There is a school very close to the proposed store and Aptos Middle School students will be passing it every day going to and from school. It cannot be good for these children to be exposed on a daily basis to e-cigarettes and vaping. The existence of the store suggests to these students that e-cigarettes and vaping are not harmful. If they were harmful the store would not be allowed.

In researching e-cigarettes and vaping I have only found one possibly positive use for them and that is in helping smokers to stop smoking. But, this is a commercial establishment to make money not a clinic to help smokers stop smoking. Therefore, I see no positive advantage to the community in having this store and many serious disadvantages. Why approve a store that will only serve a very small demographic that is already served by other nearby stores selling e-cigarettes? Especially when there is a very real possibility of harming a much larger group of children? It makes far more sense to have the space occupied by an enterprise such as a restaurant, bookstore, beauty salon or market that would not only be better for the local community, but, would also attract visitors and tourist dollars to Ocean Avenue.

Respectfully yours,

Nancy Katsuranis

(BOS)

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**From:** Board of Supervisors (BOS)  
**Sent:** Wednesday, December 31, 2014 11:34 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

**Categories:** 141291

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**From:** Jules Haubenschmit [<mailto:julesh717@aol.com>]  
**Sent:** Tuesday, December 30, 2014 1:21 AM  
**To:** Board of Supervisors (BOS)  
**Subject:** Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

Dear Board of Supervisors,

My name is Jules Haubenschmit and I was a student of CCSF for the last 4 years. I have spend a lot of my time on Ocean Avenue searching for a venue to frequent and keep myself entertained between activities. I have found that the block of Ocean Avenue seems to be really lacking in it's entertainment and activities sector. This are has plenty of conveniences and services but is still missing that consistent color. I support Happy Vape as it breathes culture into an area left complacent for too long. The city is going through many changes and I believe the Ocean Avenue area is being left behind based on the many different evolving views and cultures that make the current San Francisco so great. This area could use a fresh start to begin the transformation, I believe Happy Vape can open these doors. Many new dwellers of this city are looking for more sociable activities to peak their interest, for instance the current growth in the biking culture seen through "Critical Mass" events, and the rise in young adults moving to the area due to demand of tech companies across the Bay Area. Happy Vape provides a congregational area with many outlets in which to allow individuals to choose to spend their well-earned time and money. Please deny the appeal and uphold the Planning Commissions decision.

Thank you for your time and consideration,  
Signed,  
Jules Haubenschmit

(BOS)

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**From:** Board of Supervisors (BOS)  
**Sent:** Wednesday, December 31, 2014 11:35 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** FW: Opposition to vape shop at 1963 Ocean Ave.

**Categories:** 141291

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**From:** Robert Karis [<mailto:rckaris@gmail.com>]  
**Sent:** Tuesday, December 30, 2014 11:52 AM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** Opposition to vape shop at 1963 Ocean Ave.

Letter in support of appeal of Planning Commission decision  
Case No. 2014.0206C

----- Forwarded message -----

**From:** Shengyu <[shenglovejanice@gmail.com](mailto:shenglovejanice@gmail.com)>  
**Date:** Mon, Dec 29, 2014 at 6:37 PM  
**Subject:** It's about vape shop  
**To:** "[rckaris@gmail.com](mailto:rckaris@gmail.com)" <[rckaris@gmail.com](mailto:rckaris@gmail.com)>

This type of business is unnecessary as there are already several stores on ocean ave that sell E-cigarettes, we live in a residential neighborhood with nearby school including middle school and high schools, and the city college San Francisco, a vape shop will encourage new young users and other to use E-cigarette that contain additive nicotine and other harmful chemicals in their fumes, we do not want ourselves, our neighbors, or our children to use or to be exposed to this type of product.

发自我的 iPad

(BOS)

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**From:** Robert Karis [rckaris@gmail.com]  
**Sent:** Tuesday, December 30, 2014 11:52 AM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** Opposition to vape shop at 1963 Ocean Ave.

**Categories:** 141291

Letter in support of appeal of Planning Commission decision  
Case No. 2014.0206C

----- Forwarded message -----

**From:** Shengyu <shenglovejanice@gmail.com>  
**Date:** Mon, Dec 29, 2014 at 6:37 PM  
**Subject:** It's about vape shop  
**To:** "rckaris@gmail.com" <rckaris@gmail.com>

This type of business is unnecessary as there are already several stores on ocean ave that sell E-cigarettes, we live in a residential neighborhood with nearby school including middle school and high schools, and the city college San Francisco, a vape shop will encourage new young users and other to use E-cigarette that contain additive nicotine and other harmful chemicals in their fumes, we do not want ourselves, our neighbors, or our children to use or to be exposed to this type of product.

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.. (BOS)

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**From:** Board of Supervisors (BOS)  
**Sent:** Wednesday, December 31, 2014 11:33 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: It's about vape shop

**Categories:** 141291

-----Original Message-----

**From:** Shengyu [<mailto:shenglovejanice@gmail.com>]  
**Sent:** Monday, December 29, 2014 6:36 PM  
**To:** Board of Supervisors (BOS)  
**Subject:** It's about vape shop

This type of business is unnecessary as there are already several stores on ocean ave that sell E-cigarettes, we live in a residential neighborhood with nearby school including middle school and high schools, and the city college San Francisco, a vape shop will encourage new young users and other to use E-cigarette that contain additive nicotine and other harmful chemicals in their fumes, we do not want ourselves, our neighbors, or our children to use or to be exposed to this type of product.

发自我的 iPad

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**From:** George Cattermole [georgecattermole@earthlink.net]  
**Sent:** Monday, December 29, 2014 12:52 PM  
**To:** BOS Legislation (BOS)  
**Cc:** Board of Supervisors (BOS); Yee, Norman (BOS); rckaris@gmail.com  
**Subject:** The vape shop selling e-cigarettes and a hookah lounge at 1963 Ocean Avenue  
**Categories:** 141291

To: Those with authority to stop the vape shop selling e-cigarettes and a hookah lounge at 1963 Ocean Avenue:

Given that:

Ocean Avenue has 8 businesses with tobacco sales permits in less than 3,600 feet, so one store selling tobacco products every 450 feet! All 8 sell cigarettes; five also sell e-cigarettes: the liquor stores at 1015, 1521, and 1551 Ocean all sell cigarettes and e-cigarettes. the service stations at 999, 1490, and 1799 Ocean Ave. 999 O.A. sells cigarettes and e-cigarettes, the other two sell cigarettes.  
395 Ashton Ave. at Ocean Ave. sells cigarettes but not e-cigarettes.  
The 7-Eleven at 2000 Ocean Avenue sells cigarettes and e-cigarettes.  
Ocean Avenue is an exception in District 7. Ocean Avenue meets criteria on p.4 of the ordinance "Higher tobacco retail density encourages smoking" and p.5 "it is in the City's interest to reduce the disproportionate exposure to tobacco outlets that exists."]

It is clear that there exist more than enough shops selling tobacco products to meet the needs of those in the vicinity of Ocean Avenue. Given that it is recognized that higher tobacco retail density encourages smoking and that smoking is bad for one's health, it follows that this establishment should not be permitted.

Thanks for you attention to this matter,

George Cattermole, Ph.D.

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:48 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

**Categories:** 141291

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**From:** Sean Scotts [<mailto:sfforever1219@gmail.com>]  
**Sent:** Monday, December 29, 2014 2:28 AM  
**To:** Board of Supervisors (BOS)  
**Subject:** Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

Dear San Francisco Supervisors,

My name is Sean Scotts and I am a concerned citizen and have found that the Ocean avenue area seems to be taking a down turn. I request that the Board of Supervisors deny the appeal and support the Planning Commission's decision to grant Happy Vape at 1963 Ocean Avenue their conditional use permit. The area is looking grayer with each passing month. There needs to be more new stores opening, I think Happy Vape will shine some new color on Ocean Avenue. I support Happy Vape as it breathes culture into an area left complacent for too long. The city is going through many changes and I believe the Ocean Avenue area is being left behind based on the many different evolving views and cultures that make the current San Francisco so great. This area could use a fresh start to begin the transformation, I believe Happy Vape can open these doors. Many new dwellers of this city are looking for more sociable activities to peak their interest, for instance the current growth in the biking culture seen through "Critical Mass" events, and the rise in young adults moving to the area due to demand of tech companies across the Bay Area. Happy Vape provides a congregational area with many outlets in which to allow individuals to choose to spend their well-earned time and money.

Thank you for your time and consideration,

Signed,

Sean Scotts

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:47 AM  
**To:** BOS-Supervisors; Carroll, John (BOS); Lamug, Joy  
**Subject:** File 141291 FW: Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

**Categories:** 141291

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**From:** Catherine Pinzon [<mailto:cpinzon901@yahoo.com>]  
**Sent:** Monday, December 29, 2014 2:15 AM  
**To:** Board of Supervisors (BOS)  
**Subject:** Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

Dear SF Supervisors,

My name is Catherine Pinzon and I truly believe a human's choice of recreational activity should be regulated up to a certain extent and the allowed to thrive when possible. I request that the Board of Supervisors deny the appeal and support the Planning Commission's decision to grant Happy Vape at 1963 Ocean Avenue their conditional use permit. Litter in the city is a major problem, cigarettes and their butts are some of the leading causes. Happy Vape is a venue attempting to promote greener living and getting the cigarette butts off our streets. When choices such as where one retail establishment opens in comparison to another is determined by neighborhood demands and their wiliness to thwart the incoming new businesses owners plans, society is doomed to repeat a lot of mistakes, as we no longer listen to innovators. Some activities in life must have regulations, however there are many other consensual activities that are largely disturbing and/or confusing to many but accepted by some.

Thank you,  
Catherine

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:47 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

**Categories:** 141291

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**From:** argw aerw [<mailto:ajsk1006@yahoo.com>]  
**Sent:** Monday, December 29, 2014 1:50 AM  
**To:** Board of Supervisors (BOS)  
**Subject:** Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

Dear SF Supervisors,

My name is A.J. Skimmer, I was a heavy smoker, and am currently vaping low nicotine content e-liquids to slowly ween myself off of nicotine. I request that the Board of Supervisors deny the appeal and support the Planning Commission's decision to grant Happy Vape at 1963 Ocean Avenue their conditional use permit. I have been to many corner and liquor stores that sell vape pens however, you never really know what your gonna get. Due to this, in the past I stayed away from this product, however, after my first experience in a vape shop, I could safely choose the right device and dose for my needs. These types of services are necessary and I believe extremely beneficial to fellow smokers such as myself. I support Happy Vape as a new vendor of these great products and possible help to stop cigarette smoking and addiction.

Thanks,  
A.J.

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:40 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

**Categories:** 141291

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**From:** Raymond Sinclair [<mailto:raymond.sinclair325@gmail.com>]  
**Sent:** Monday, December 29, 2014 1:26 AM  
**To:** Board of Supervisors (BOS)  
**Subject:** Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

Dear Planner,

My name is Raymond Sinclair, I am an e-cigarette user, and have found that it has really helped me remove my desire to smoke cigarettes or chew tobacco. I request that the Board of Supervisors deny the appeal and support the Planning Commission's decision to grant Happy Vape at 1963 Ocean Avenue their conditional use permit. The Happy Vape project is a great way to offer this to more smokers and tobacco users. I support the Happy Vape project and I believe that e-cigarettes are a great alternative to smoking traditional cigarettes. I believe with the current regulations in place, e-cigarettes can really begin to take a chunk out of the cigarette smoking industry, while promoting a form of smoking cessation. There has been much controversy on the subject of e-cigarette use and its benefits and dangers, however much of this has been inconclusive. Since this seems to be an effective alternative for some people to smoking cigarettes, I can see a fitting place for this type of establishment in the area.

Thank you for your time and consideration,

Signed,

Raymond Sinclair

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:38 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

**Categories:** 141291

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**From:** Cindy Hernandez [<mailto:c.hernandez101@yahoo.com>]  
**Sent:** Monday, December 29, 2014 1:10 AM  
**To:** Board of Supervisors (BOS)  
**Subject:** Deny the Appeal, Support the Planning Commission's decision to grant Happy Vape @1963 Ocean Avenue their Conditional Use Permit

Dear San Francisco Supervisors,

My name is Cindy Hernandez, I have shopped on Ocean Avenue a long time. I request that the Board of Supervisors deny the appeal and support the Planning Commission's decision to grant Happy Vape at 1963 Ocean Avenue their conditional use permit. I used to frequent the Clean-X-Press and Java on Ocean. Lately the area seems to be dilapidated, so many stores have closed along Ocean and not many have replaced them. I long to see the Ocean Avenue I once knew many years ago, vibrant and thriving. I saw that there is a new store opening on Ocean Avenue and a notice of conditional use permit application, and I wanted to show my support for a new business. Please support new businesses that come to this area as they need some newer looking stores that will attract new people.

Thank you,

Cindy Hernandez

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:37 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: 1963 Ocean Ave. Proposed Vape Shop - Opposition

**Categories:** 141291

-----Original Message-----

From: Vuksich Alexandra [<mailto:alexandravuksich@sbcglobal.net>]  
Sent: Sunday, December 28, 2014 5:05 PM  
To: BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
Cc: [rckaris@gmail.com](mailto:rckaris@gmail.com)  
Subject: 1963 Ocean Ave. Proposed Vape Shop - Opposition

Dear Supervisors,

A "Vape" Shop has been proposed for 1963 Ocean Avenue – a business type to which I object as a resident of Balboa Terrace and the greater Ocean Avenue corridor. This portion of Ocean Avenue gradually becomes more residential and already has a 7-Eleven, Pool Hall, two Medical Marijuana Dispensaries (another has been proposed at the other end of Ocean Avenue nearer to the public library) and is really not reflective of the needs of this neighborhood which is predominantly comprised of single family residential houses with actual, factual families living in them. I grew up in the neighborhood and have seen this portion of the corridor turn from an integral part of family life with the El Rey Theatre, Zim's, toy and pet shops, dry cleaners and Mom & Pop markets to a street I avoid. Given that the Board has adopted a moratorium on new permits to sell "vape" and tobacco products in the city which does not take effect until late in January, I would hate to see this permit slip by simply due to luck in timing. I would also hope that Ocean Avenue's landlords and the Ocean Avenue Merchants Association can work together to attract the types of business that make other neighborhood corridors in the city so successful.

I urge you to oppose the Conditional Use Application for 1963 Ocean Avenue.

Thank you for your time and consideration,

Alexandra Vuksich  
177 San Aleso Ave.

S)

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:36 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Cc:** Calvillo, Angela (BOS)  
**Subject:** File 141291 FW: Case No. 2014.0206C, 1963 Ocean Avenue, letter of opposition  
**Attachments:** appeal\_letter\_si.pdf

**Categories:** 141291

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**From:** Robert Karis [<mailto:rckaris@gmail.com>]  
**Sent:** Sunday, December 28, 2014 11:01 AM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** Case No. 2014.0206C, 1963 Ocean Avenue, letter of opposition

Dear Clerk of the Board,

Please enter the attached letter, written and signed by a neighbor, in opposition to the proposed vape shop at 1963 Ocean Ave.

Thank you,  
Robert Karis

December 26, 2014

Case No. 2014.0206C, 1963 Ocean Avenue  
Letter to support the appeal of Conditional Use Authorization for 1963  
Ocean Avenue

Dear Board of Supervisors:

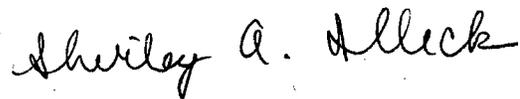
I am writing in regard to the proposed Tobacco Paraphernalia establishment at 1963 Ocean Avenue between the cross streets of Ashton and Victoria. This business intends to sell e-cigarette<sup>s</sup>, e-liquids and operate a steam stone hookah lounge in the basement. Everyone in our neighborhood is furious about this; surely you won't give your approval.

Nationally, for the sake of everyone's health, we are attempting to stamp out smoking. Now this group is trying to encourage it, especially among young people - and this location is almost adjacent to a church-run school and is only a few blocks from Aptos Middle School. It is indefensible!

There are already eight other locations on Ocean Avenue that sell cigarettes and/or e-cigarettes - and the fumes can be harmful to anyone, even passersby.

Please realize that this Establishment is an affront to the neighborhood and our young people as this atmosphere can lead to substance abuse and addiction. Surely San Francisco city planners and supervisors should work to protect its citizens.

Sincerely,



Ingleside Terraces resident

**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:34 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Opposition to 1963 Ocean Avenue business establishment

**Categories:** 141291

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**From:** Dan Hambali [mailto:dahambali@gmail.com]  
**Sent:** Sunday, December 28, 2014 8:52 AM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** Opposition to 1963 Ocean Avenue business establishment

To whom it may concern,

My name is Daniel Hambali, and my family of five (which includes 3 children under 5) live at 715 Victoria St. in the Ingleside Terraces neighborhood. We moved here in 2005 as we intended to start a family because we found the homes large, the neighborhood safe, clean, and quiet, and Ocean Avenue offered nearby services that we found desirable. Due to the economic down turn, many businesses that we patronized ceased operation, and have since been replaced with less wholesome businesses. On the 1900 block of Ocean Avenue alone, we have now added two tattoo parlors (within 100 feet of each other), a pool hall, and a medical marijuana dispensary.

We have lost Franciscan Hobbies (a 68 year old SF institution when it came to models, model trains, and other similar hobbies), Aquatic Central (aquarium hobby store), and Ocean Taqueria. The tone of the immediate neighborhood businesses on Ocean Avenue has changed to suit unmarried young singles despite the immediate neighborhood being the contrary.

I oppose the addition of the new vape shop and hookah lounge at 1963 Ocean Ave for the following reasons.

- 1) The proposed establishment is within 500 feet from the Voice of Pentacost school at 1970 Ocean Avenue. Just looking at the street address will indicate that these two locations are very close in proximity.
- 2) E-cigarettes are sold elsewhere on Ocean Avenue near to the proposed location. This does not constitute a differentiation of goods and services for the neighborhood—it's more of the same.

The 7-11 at 2000 Ocean Avenue sells these. This is within 500 feet.

The following street addresses on Ocean Avenue also sell e-cigarettes: 999, 1015, 1490, 1521, 1551.

One hardly needs to leave their own block in order to purchase.

- 3) The proposed establishment isn't consistent with the Ingleside Terraces demographics. The neighborhood is comprised of households with children or senior citizens. See: [http://www.realtor.com/local/Ingleside-Terrace-Sub\\_San-Francisco\\_CA/lifestyle](http://www.realtor.com/local/Ingleside-Terrace-Sub_San-Francisco_CA/lifestyle) The proposed establishment seems more consistent of a neighborhood with young singles.

Please consider these factors, and deny the proposed establishment at 1963 Ocean Avenue.

Best Regards,

Dan Hambali

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:33 AM  
**To:** Carroll, John (BOS); Lamug, Joy  
**Subject:** File 141291 FW: Support Letter for Happy Vape at 1963 Ocean Avenue

**Categories:** 141291

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**From:** Sarah Lee [<mailto:lee.sarah055@yahoo.com>]  
**Sent:** Sunday, December 28, 2014 1:55 AM  
**To:** Yee, Norman (BOS); Avalos, John (BOS); Breed, London (BOS); Campos, David (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Kim, Jane (BOS); Mar, Eric (BOS); Tang, Katy (BOS); Wiener, Scott; Board of Supervisors (BOS)  
**Subject:** Re: Support Letter for Happy Vape at 1963 Ocean Avenue

Dear Supervisors,

I have been updated about the appeal, and would like to pledge my support of the Planning Commission's decision to grant Happy Vape @ 1963 Ocean Avenue their conditional use permit. Please support the Commission's decision and deny the appeal.

Thank you,

Sarah Lee

On Wednesday, December 3, 2014 11:05 PM, Sarah Lee <[lee.sarah055@yahoo.com](mailto:lee.sarah055@yahoo.com)> wrote:

Dear Supervisors of San Francisco,

My name is Sarah Lee, and I am a resident in the Richmond District. I was a smoker back when I was a teen, and I remember exactly how hard it was to quit. I remember the sweaty nights, the late night fiending, and the desire to find any excuse for a cigarette. I wish they had e-cigs back then as they would have made it 100 times easier to stop. I found that a lot of my co-workers are now using e-cigs as a way to stop smoking, and I can feel the air around work get little cleaner. I don't smell old stale cigarettes whenever I get in an elevator and there is less animosity towards vapors compared to smokers. I think Happy Vape has the right idea and that this is a positive trend that should be supported.

Thank you,

Sarah L.

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:33 AM  
**To:** Carroll, John (BOS); Lamug, Joy  
**Subject:** File 141291 FW: Letter of Support New Vape Shop on Ocean Avenue - Happy Vape

**Categories:** 141291

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**From:** Yin Lam [<mailto:dongdongdong309@mail.com>]  
**Sent:** Sunday, December 28, 2014 1:31 AM  
**To:** Yee, Norman (BOS); Avalos, John (BOS); Breed, London (BOS); Campos, David (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Kim, Jane (BOS); Mar, Eric (BOS); Tang, Katy (BOS); Wiener, Scott; Board of Supervisors (BOS)  
**Subject:** Fw: Letter of Support New Vape Shop on Ocean Avenue - Happy Vape

Dear Supervisors,

Please deny appeal for Happy Vape 1963 Ocean Avenue. Please support Planning.

Thank you  
Yin

**Sent:** Monday, December 01, 2014 at 3:02 AM  
**From:** "Yin Lam" <[dongdongdong309@mail.com](mailto:dongdongdong309@mail.com)>  
**To:** [Katy.Tang@sfgov.org](mailto:Katy.Tang@sfgov.org), [Scott.Wiener@sfgov.org](mailto:Scott.Wiener@sfgov.org), [Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org), [Norman.Yee@sfgov.org](mailto:Norman.Yee@sfgov.org), [John.Avalos@sfgov.org](mailto:John.Avalos@sfgov.org), [London.Breed@sfgov.org](mailto:London.Breed@sfgov.org), [David.Campos@sfgov.org](mailto:David.Campos@sfgov.org), [Malia.Cohen@sfgov.org](mailto:Malia.Cohen@sfgov.org), [Mark.Farrell@sfgov.org](mailto:Mark.Farrell@sfgov.org), [Jane.Kim@sfgov.org](mailto:Jane.Kim@sfgov.org), [Eric.L.Mar@sfgov.org](mailto:Eric.L.Mar@sfgov.org)  
**Subject:** Letter of Support New Vape Shop on Ocean Avenue - Happy Vape

Dear Supervisors of San Francisco,

I am Yin Lam, I am an immigrant here for the last 10 years. I work in the post office. I have walked on Ocean Avenue many times. There are only some good stores. I wish for more stores. My friend wants to open a store on Ocean and I support his project.

Thank you,

Yin Lam

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:32 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Dear SF Supervisor Normam Yee, Support Happy Vape.  
**Categories:** 141291

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**From:** Jim simmons [<mailto:radioactiveman444@gmail.com>]  
**Sent:** Sunday, December 28, 2014 1:09 AM  
**To:** Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** Fwd: Dear SF Supervisor Normam Yee, Support Happy Vape.

Dear Supervisor Yee,

I have been updated regarding the appeal for 1963 Ocean Avenue, and would like to express my support for the Happy Vape project, and request that you deny the appeal and allow Happy Vape to open.

Thank You,

Jim Simmons

----- Forwarded message -----

**From:** **Jim simmons** <[radioactiveman444@gmail.com](mailto:radioactiveman444@gmail.com)>  
**Date:** Sat, Nov 29, 2014 at 12:38 AM  
**Subject:** Dear SF Supervisor Normam Yee, Support Happy Vape.  
**To:** [Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org), [Norman.Yee@sfgov.org](mailto:Norman.Yee@sfgov.org)

Dear District Supervisor Norman Yee,

My name is Jim Simmons, and I find E-Cigarettes useful. I have spent many days lighting away at my cigarettes in the rain and when there was a high wind and now with a E-Cig I can vape anytime at least outdoors. I have lived for some time on Ralston street, and I eagerly welcome a vapor lounge to open in the area as I would not have to travel as far to get my products. Happy Vape seems like great idea and it could use your support. Thank you for considering these thoughts.

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 29, 2014 11:31 AM  
**To:** Carroll, John (BOS); Lamug, Joy  
**Subject:** File 141291 FW: Deny Appeal and Support Conditional Use Permit Fw: Support Letter for Happy Vape at 1963 Ocean Avenue

**Categories:** 141291

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**From:** Ellen Park [<mailto:ellenpark3333@yahoo.com>]  
**Sent:** Sunday, December 28, 2014 12:47 AM  
**To:** Yee, Norman (BOS); Avalos, John (BOS); Breed, London (BOS); Campos, David (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Kim, Jane (BOS); Mar, Eric (BOS); Tang, Katy (BOS); Wiener, Scott; Board of Supervisors (BOS)  
**Subject:** Deny Appeal and Support Conditional Use Permit Fw: Support Letter for Happy Vape at 1963 Ocean Avenue

Dear Supervisors,

I have been updated regarding the appeal and would like to show my support for Happy Vape and their Conditional Use Permit. Please deny the appeal and support the Planning Commissions decision.

Thank you again,

Ellen

On Tuesday, December 2, 2014 11:30 PM, Ellen Park <[ellenpark3333@yahoo.com](mailto:ellenpark3333@yahoo.com)> wrote:

Dear Supervisors of San Francisco,

My name is Ellen Park, and I support Happy Vape due to its promotion of a cigarette free environment. I believe that with less cigarette smokers we will find that our beaches, streets, and sidewalks will reduce cigarette butt waste tremendously. Studies show that cigarette butts contribute to at least a third of the current road waste on America's roadways. The emissions of the e-cigarette has been found to be 7 to 150 times less harmful than that of cigarettes. One drag from a vaporizer pen has also been found to be equivalent to a breath of air in a major metropolis. With these statistics I feel comfortable in support of e-cigarette use and Happy Vape as a responsible vendor.

Thank you for you time and consideration.

-Ellen

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**From:** Board of Supervisors (BOS)  
**Sent:** Wednesday, December 24, 2014 12:01 PM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: OBJECTION TO HOOKAH LOUNGE OCEAN ST, SF

**Categories:** 141291

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**From:** [RUSSIANFOK@aol.com](mailto:RUSSIANFOK@aol.com) [<mailto:RUSSIANFOK@aol.com>]  
**Sent:** Tuesday, December 23, 2014 5:07 PM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Cc:** [rckaris@gmail.com](mailto:rckaris@gmail.com)  
**Subject:** OBJECTION TO HOOKAH LOUNGE OCEAN ST, SF

*PLEASE MAKE A NOTE THAT WE, RESIDENTS OF INGLESIDE TERRACES OBJECT  
AND STRONGLY REQUEST  
THAT THERE WOULD BE NO HOOKAH LOUNGE/STORE ON OCEAN STREET, IN SAN  
FRANCISCO!  
THANK YOU.  
HAPPY HOLIDAYS!  
NIKOLAI, DOUCE ANN, MASSENKOFF  
735 URBANO DRIVE  
SAN FRANCISCO, CA 94127*

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**From:** Board of Supervisors (BOS)  
**Sent:** Wednesday, December 24, 2014 11:59 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: We support the business proposed at 1963 Ocean Avenue  
**Attachments:** 2014.0206C\_CU Final Motion.pdf; Leg Ver3\_20141209.pdf

**Categories:** 141291

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**From:** Patrick Otellini [mailto:patrickotellini@gmail.com]  
**Sent:** Tuesday, December 23, 2014 3:45 PM  
**To:** Boudreaux, Marcelle (CPC); Yee, Norman (BOS); Board of Supervisors (BOS); BOS Legislation (BOS); Scanlon, Olivia (BOS)  
**Subject:** We support the business proposed at 1963 Ocean Avenue

To whom it may concern,

My wife and I received the notice below from our neighborhood association and I want to take this opportunity to say that **WE FULLY SUPPORT THIS BUSINESS** contrary to what the email below spells out. We are raising our children here and they both attend school in the neighborhood. We would much rather see the proposed business open and help our local economy instead of seeing yet another vacant storefront continue to fester on Ocean Ave.

Thank you,

Patrick and Marissa Otellini  
225 Ashton Ave  
San Francisco, CA 94112

----- Forwarded message -----

**From:** Robert Karis <rckaris@gmail.com>  
**Date:** Friday, December 19, 2014  
**Subject:** Letters needed to oppose the vape shop!!  
**To:** Marissa Otellini <marissaotellini@gmail.com>, patrickottellini@yahoo.com

Dear Marissa and Patrick,

We **need** emails and letters sent to the Board of Supervisors to support our appeal and oppose the vape shop selling e-cigarettes and operating a hookah lounge at 1963 Ocean Avenue! The BOS hearing is scheduled for Tuesday, January 13, 2015 at 3 P.M. In order to be entered into the packet, emails should be sent before Monday, January 5, at 5 P.M.

Send your emails to the following:

[bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)

[Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org)

[Norman.Yee@sfgov.org](mailto:Norman.Yee@sfgov.org)

and please send a copy to me [rekaris@gmail.com](mailto:rekaris@gmail.com)

In addition to your own emails, please ask/request your families, friends and schools to also send emails. Mention your neighborhood and school. The number of emails is counted. The Board wants to know if the neighbors are opposed to this business, and I am sure we are opposed to it.

Some of the "Findings" (pp.2-7) in the Final Motion of the Planning Commission on 11/6/14 (attached) are as follows:

Sections 7.A. (p.4): The proposed new uses and building ... will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

7.B. (p.5): The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity.

7.D. (p.6): *The proposal enhances the range of comparison goods and services offered by adding another specialty retail store to the District*

7.E.(p.6): The concentration of such establishments in the particular zoning district for which they are proposed does not appear to adversely impact the health, safety, and welfare of residents of nearby areas,

Please discuss how you disagree with the "Findings" and how they are mistaken.

You could also explain how this business does not meet the "Objectives" listed on pp.7-10:

#### NEIGHBORHOOD COMMERCE

Policy 1.1:(p.7): Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated

Policy 6.1:(p.8): Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

#### BALBOA PARK STATION AREA PLAN

Policy 1.2.3: Retain and improve the neighborhood's existing businesses while also attracting new businesses that address unmet retail and service needs of the diverse local neighborhoods.

11.(p.10): The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

Finally, I hope you are aware of the recent legislation (attached) passed unanimously by the Board of Supervisors on 12/9/14 and 12/16/14 to limit tobacco sales permits (which includes e-cigarettes). The following Grounds for Denial (p.10-11) would apply to this vape shop. [My comments are in brackets.]

*(3) No new permit shall be issued if the Applicant will be within 500 feet of the nearest point of the property line of a School.*

[1963 Ocean Ave. is 130 feet from the Voice of Pentecost Academy.][Measurements made using the Measure Distance tool in the San Francisco Property Information Map]

<http://ec2-50-17-237-182.compute-1.amazonaws.com/PIM/>

*(4) No new permit shall be issued if the Applicant will be located within 500 feet of the nearest point of the property line of an existing Establishment as measured by a straight line from the nearest point of the property line on which the Applicant's Establishment will be located...*

[1963 Ocean Ave. is 350 feet from a 7-Eleven which sells cigarettes and e-cigarettes, and less than 400 feet west of a small store on Ashton which sells cigarettes.]

*(5) No new permit shall be issued in any supervisorial district that has 45 or more Establishments with Tobacco Sales permits.*

[District 7 has "only" 37 establishments with tobacco sales permits, so it doesn't meet this criteria. However, Ocean Avenue has 8 businesses with tobacco sales permits in less than 3,600 feet, so one store selling tobacco products every 450 feet! All 8 sell cigarettes; five also sell e-cigarettes:

the liquor stores at 1015, 1521, and 1551 Ocean all sell cigarettes and e-cigarettes.

the service stations at 999, 1490, and 1799 Ocean Ave. 999 O.A. sells cigarettes and e-cigarettes, the other two sell cigarettes.

395 Ashton Ave. at Ocean Ave. sells cigarettes but not e-cigarettes.

The 7-Eleven at 2000 Ocean Avenue sells cigarettes and e-cigarettes.

Ocean Avenue is an exception in District 7. Ocean Avenue meets the criteria on p.4 of the ordinance "Higher tobacco retail density encourages smoking" and p.5 "it is in the City's interest to reduce the disproportionate exposure to tobacco outlets that exists."]

*(7) No new permit shall be issued to any Applicant for operation of a Tobacco Shop.*

*(8) No new permit shall be issued for a location not previously occupied by a permitted Establishment.*

Unfortunately, as this legislation does not take effect for 30 days, it probably does not legally apply to 1963 Ocean Ave. However, as the Supervisors unanimously voted for and agree with the Grounds for Denial, I think they should apply these criteria to the Conditional Use Application for 1963 Ocean Ave.

It would take another long email to begin to list all of the undesirable effects of e-cigarettes and hookah (even the non-tobacco steam stone variety of hookah that this store intends to use). Please send me any questions about this subject.

Please forward this email or suggest changes to me. I will continue sending it to everyone we know.

Thanks!

Bob and Carolyn Karis  
727 Victoria St.  
San Francisco, CA 94127  
415-239-2938



# SAN FRANCISCO PLANNING DEPARTMENT

*Subject to: (Select only if applicable)*

- |  |  |
|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415)           | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412)            | <input type="checkbox"/> Other                             |

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

## Planning Commission Final Motion No. 19271

HEARING DATE: NOVEMBER 6, 2014

*Date:* October 30, 2014  
*Case No.:* **2014.0206C**  
*Project Address:* **1963 Ocean Avenue**  
*Zoning:* Ocean Avenue NCT (Neighborhood Commercial Transit)  
45-X Height and Bulk District  
*Block/Lot:* 6915/020  
*Project Sponsor:* Cong Phuong T Nguyen/Yong (Blake) He [agent]  
948 Moscow Street  
San Francisco, CA 94112  
*Staff Contact:* Marcelle Boudreaux – (415) 575-9140  
[marcelle.boudreaux@sfgov.org](mailto:marcelle.boudreaux@sfgov.org)  
*Recommendation:* **Approval with Conditions**

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 737.69 OF THE PLANNING CODE TO ALLOW ESTABLISHMENT OF A TOBACCO PARAPHERNALIA ESTABLISHMENT (D.B.A. HAPPY VAPE) WITHIN THE OCEAN AVENUE NCT (NEIGHBORHOOD COMMERCIAL TRANSIT) DISTRICT AND A 45-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On February 7, 2014 Cong Phuong Nguyen (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 737.69 to allow establishment of a Tobacco Paraphernalia Establishment retail use (d.b.a. Happy Vape) within the Ocean Avenue NCT (Neighborhood Commercial Transit) District and a 45-X Height and Bulk District.

On November 6, 2014, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.0206C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2014.0206C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the southern side of Ocean Avenue, between, Block 6915, Lot 020. The property is located within the Ocean Avenue NCT (Neighborhood Commercial Transit) District with 45-X height and bulk district. The property is developed with a one-story-over-partial-basement commercial building, with tenants including a travel agent, a massage/acupuncture establishment and the vacant retail space at 1963 Ocean Avenue. The street frontage of the proposed tenant space is 20 feet. The parcel is approximately 4,500 square feet. *The site is within the Balboa Park Station Plan Area.*
3. **Surrounding Properties and Neighborhood.** The length of the Ocean Avenue NCT District is approximately  $\frac{3}{4}$  mile and the City College of San Francisco anchors the southern end of the district, with approximately 35,000 students. The area surrounding the project site on Ocean Avenue is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the Ocean Avenue NCT, including restaurants, cafes, professional services, convenience stores, liquor stores, auto service stations, and other types of retailers.

Buildings along Ocean Avenue typically range from one to five stories in height. Upper floors of buildings are generally occupied by residential units. The surrounding properties are located within the RH-1(D) (Residential House, One-Family Detached), RH-1 (Residential House, One-Family) and RH-2 (Residential House, Two-Family) Districts, with some NC-2 and NC-1 zoned districts interspersed. The area is transit-oriented with the MUNI K-Ingleside line on Ocean Avenue and several bus lines on and connecting to Ocean Avenue. The Ocean Avenue NCT District is intended to provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices.

4. **Project Description.** The project sponsor proposes to establish a Tobacco Paraphernalia Establishment retail use in a vacant retail space to be known as "Happy Vape", which will include e-cigarette sales at the ground floor and a steam stone hookah lounge at the basement

level. The existing tenant space measures approximately 1,334 square feet at ground floor and 1,054 square feet at basement level. The project also includes minor interior tenant improvements, new signage but otherwise proposed no storefront alterations.

The project sponsor proposes a business that will sell devices (e-cigarettes/vaporizers), vaping liquids/e-juices and batteries both in-store and some accessory sales on-line. In the basement level, the project sponsor proposes establishing a steam stone hookah lounge. Together, these activities have been determined as Tobacco Paraphernalia Establishment uses and account for more than 10% of the square footage of occupied floor area. The proposed hours of operation are from 11 a.m. to 12 a.m. daily. No ABC license is being sought in conjunction with this Conditional Use authorization.

E-cigarette smoking, or "vaping", is not allowed inside commercial establishments within San Francisco.

The proposed use is an independent use and locally owned, which has been encouraged throughout San Francisco. The proposed use is not a Formula Retail use. The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the Conditional Use Authorization process.

The proposed operation will employ between 2-4 employees. The subject site is well served by public transit so that potential customers should not adversely affect the traffic flow.

5. **Public Comment.** To date, the Department has received emails and letters in opposition to the proposal from 22 individuals, and 2 letters of opposition from neighborhood groups, including the Westwood Park Association and from the Ingleside Terraces Homes Association. These individuals and groups expressed concerns regarding the safety of e-cigarettes, the safety and welfare of children in relation to e-cigarettes, possibility of odor, crime in the area, and problems with the outdoor area (which the project sponsor has since removed from the project). The Department has also received a letter of support from the Ocean Avenue Association. The project sponsor has obtained 21 signed letters of support from neighboring business owners, including a petition with two signatures.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Use Size.** Planning Code Section 737.21 permits use sizes up to 3,999 square feet, with a Conditional Use Authorization required for use sizes of 4,000 square feet and above, as defined by Planning Code Section 790.130.

*The proposed use size of the ground floor and basement level is approximately 2,423 square feet.*

- B. **Outdoor Activity.** Planning Code Section 737.24 states that a Conditional Use Authorization is required for an Outdoor Activity Area, as defined by Planning Code Section 790.70.

*The Project Sponsor does not intend to establish an outdoor activity area.*

- C. **Hours of Operation.** Planning Code Section 737.27 permits operation by-right from 6 a.m. to 2 a.m. Operation between the hours of 2 a.m. to 6 a.m is allowed through conditional use authorization only.

*The Sponsor does not seek to operate beyond the permitted hours of operation for the Zoning District. The proposed hours of operation for Happy Vape are 11 a.m. to 12 a.m. daily in the ground and basement levels.*

- D. **Rear Yard Requirement in the Ocean Avenue NCT District.** Planning Code Section 737.12 and 134 states that the minimum rear yard depth shall be equal to 25 percent of the total depth of a lot in which it is situated, but in no case less than 15 feet.

*The proposal does not include any structural expansion. The rear yard meets the Planning Code requirements.*

- E. **Parking.** Planning Section 151 of the Planning Code requires off-street parking for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

*The Subject Property contains approximately 2,423 square-feet of occupied floor area and thus does not require any off-street parking.*

- F. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor. Frontages with active uses must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building.

*The subject commercial space has approximately 20-feet of frontage on Ocean Avenue with approximately 20 feet devoted to either the retail entrance or window space. The windows are proposed as clear and unobstructed. There are no changes proposed to the commercial frontage.*

- G. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department per Article 6 of the Planning Code.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The size of the proposed use is in keeping with other storefronts on the block face. The proposed Tobacco Paraphernalia Establishment will not impact traffic or parking in the District, as the use is not changing from retail. This will compliment the mix of goods and services currently available in the district by providing diverse commercial offerings and contribute to the economic vitality of the neighborhood by removing a vacant storefront.*

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The height and bulk of the existing building will remain the same and will not alter the existing appearance or character of the project vicinity. The proposed work will not affect the building envelope.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*The Planning Code does not require parking or loading for a 2,423 occupied square-foot retail use. The proposed use is designed to meet the needs of the immediate neighborhood as well as limited comparison shopping goods for a wider market. The site is easily accessible by transit for surrounding neighborhoods, and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.*

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*The proposed use is subject to conditions of approval outlined in Exhibit A. Conditions 3 and 6 specifically obligates the project sponsor to mitigate odor generated by the Tobacco Paraphernalia Use.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The proposed use does not require additional exterior improvements, nor does the project require parking or loading. The Department shall review all signs proposed for the new business in accordance with Article 6 of the Planning Code.*

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.*

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The proposed project is consistent with the stated purposes of the Ocean Avenue NCT District in that the intended use is located at the ground floor and below, will provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. The proposal enhances the range of comparison goods and services offered by adding another specialty retail store to the District. The project seeks to retain an existing storefront, which will preserve the fine grain character of the district. Further, a survey conducted by the Mayor's Office of Economic and Workforce Development Invest in Neighborhoods program (February 2013) determined that more diverse commercial offerings were desired by the neighborhood.*

- E. With respect to a Tobacco Paraphernalia Establishment, as defined in Section 227(v) of the Planning Code, the Commission shall make the following findings:

- i. The concentration of such establishments in the particular zoning district for which they are proposed does not appear to contribute directly to peace, health, safety, and general welfare problems, including drug use, drug sales, drug trafficking, other crimes associated with drug use, loitering, and littering, as well as traffic circulation, parking, and noise problems on the district's public streets and lots;

*The proposal is a new establishment, which proposes to utilize a vacant retail space for an electronic cigarette retail store and steam stone hookah lounge. There are no other Tobacco Paraphernalia Establishments within the Ocean Avenue NCT that have received Conditional Use authorization. The approximate concentration of establishments that sell e-cigarettes – including as peripheral goods and the proposed business - within the Ocean Avenue NCT is 6% of commercial frontage. The project sponsor will maintain current contact information for a Community Liaison per Condition 6 in Exhibit A, will endeavor to create a safe business environment, discourage loitering and e-cigarette smoking outside the storefront, and maintain the public space in front of the storefront free from litter per Condition 4 in Exhibit A. Street parking exists along Ocean Avenue and the area is well-served by MUNI K-Ingleside lightrail line and several bus lines on and connecting to Ocean Avenue.*

- ii. The concentration of such establishments in the particular zoning district for which they are proposed does not appear to adversely impact the health, safety, and welfare of residents of nearby areas, including fear for the safety of children, elderly and disabled residents, and visitors to San Francisco;

*The proposal is a new establishment, which proposes to utilize a vacant retail space for an electronic cigarette retail store and steam stone hookah lounge. There are no other Tobacco Paraphernalia Establishments within the Ocean Avenue NCT that have received Conditional Use authorization. The approximate concentration of establishments that sell e-cigarettes –*

*including as peripheral goods and the proposed business - within the Ocean Avenue NCT is 6% of commercial frontage. The project sponsor will maintain current contact information for a Community Liaison per Condition 6 in Exhibit A, will endeavor to create a safe business environment, discourage loitering and e-cigarette smoking outside the storefront, and maintain the public space in front of the storefront free from litter per Condition 4 in Exhibit A.*

- iii. The proposed establishment is compatible with the existing character of the particular district for which it is proposed.

*The proposal is a new commercial establishment, which proposes to utilize a vacant retail space for an electronic cigarette retail store and steam stone hookah lounge. The use will remain as retail establishment, and no changes are proposed to the fine-grained, pedestrian-oriented storefront. The establishment is compatible with the existing character of particular district for which it is proposed.*

- 8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

## **NEIGHBORHOOD COMMERCE**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

##### **Policy 1.1:**

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

##### **Policy 1.2:**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

##### **Policy 1.3:**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The proposed development will provide specialty goods and services to the neighborhood and will provide employment opportunities to those in the community. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.*

#### **OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

**Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

*The Project will introduce a new commercial retail use and will enhance the diverse economic base of the City.*

**OBJECTIVE 6:**

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

**Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood. The proposed business seeks to occupy a vacant retail storefront with a diverse commercial use.*

**Policy 6.2:**

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

*An independent entrepreneur is sponsoring the proposal. This is not a Formula Retail use.*

## **BALBOA PARK STATION AREA PLAN**

### **Objectives and Policies**

**OBJECTIVE 1.2:**

STRENGTHEN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL DISTRICT.

**Policy 1.2.3:**

Retain and improve the neighborhood's existing businesses while also attracting new businesses that address unmet retail and service needs of the diverse local neighborhoods.

An independent entrepreneur is seeking to bring a new retail use to the District. No retail use is being displaced as the storefront space is currently vacant.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The proposal would enhance the district by filling a vacant storefront and preserve a retail use. The business would be locally owned and it creates 2-4 employment opportunities for the community. The proposed alterations are within the existing building footprint.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The existing units in the surrounding neighborhood would not be adversely affected.*

- C. That the City's supply of affordable housing be preserved and enhanced,

*No housing is removed for this Project.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The site is on Ocean Avenue and is well served by transit. Street parking lines both sides of Ocean Avenue. Ocean Avenue has one MUNI light-rail (K-Ingleside) and several bus lines on and connecting to Ocean Avenue.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The Project will not displace any service or industry establishment. The project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.*

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*A landmark or historic building does not occupy the Project site.*

H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2014.0206C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 30, 2014, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19271. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

**Protest of Fee or Exaction:** You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on November 6, 2014.

Jonas P. Ionin  
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: November 6, 2014

## EXHIBIT A

### AUTHORIZATION

This authorization is for a conditional use to allow a Tobacco Paraphernalia Establishment (d.b.a. **Happy Vape**) located at 1963 Ocean Avenue, Block 6915, Lot 020, pursuant to Planning Code Section(s) 303, 737.69 within the Ocean Avenue NCT District and a 45-X Height and Bulk District; in general conformance with plans, dated **October 30, 2014**, and stamped "EXHIBIT B" included in the docket for Case No. 2014.0206C and subject to conditions of approval reviewed and approved by the Commission on **November 6, 2014** under Motion No 19271. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **November 6, 2014** under Motion No 19271.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19271 shall be reproduced on the Index Sheet of construction plans submitted with the site or building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

### CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

## PERFORMANCE

**Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

**Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## Conditions of Approval, Compliance, Monitoring, and Reporting

1. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code

Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

2. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## DESIGN – COMPLIANCE AT PLAN STAGE

3. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*
4. **ID Reader and Signage at Front.** In order to ensure that the business owner maintains restrictions on entry to ages 18 and older, the building permit application to implement the project shall include an Identification reader installed at the entry door and signage at the entry door(s) indicating entry by individuals ages 18 and older.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## OPERATION

5. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.  
*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>*
6. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. Further the Project Sponsor shall ensure that e-cigarette and other Tobacco Paraphernalia is not tasted on the

sidewalk outside the establishment and that there is no loitering outside the establishment in relation to the subject business.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>*

7. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

*For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), [www.baaqmd.gov](http://www.baaqmd.gov) and Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

8. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Community Liaison is Yong (Blake) He, at a business address of 1963 Ocean Avenue, San Francisco, CA 94127, and phone number 415-513-2620. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

9. **Hours of Operation.** The subject establishment is limited to the following hours of operation: 11 a.m. – 10 p.m. daily.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

10. **ID Reader and Signage at Front.** Appropriate Identification scanning equipment should be installed and utilized at the entry for monitoring entry by individuals ages 18 and older. Appropriate code-complying signage shall be affixed to entry door(s) indicating entry by individuals ages 18 and older.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

11. **Six-Month Monitoring.** Planning Commission shall be provided an update on operations six months after approval.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

1 [Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees]

2  
3 **Ordinance amending the Health Code by adding density, proximity, and sales**  
4 **establishment limitations on the granting of new tobacco sales permits, and**  
5 **renumbering all sections in Article 19H; amending the Business and Tax Regulations**  
6 **Code by increasing the annual license and application fees; and making environmental**  
7 **findings.**

8  
9 **NOTE:** **Unchanged Code text and unmodified text** are in plain Arial font.  
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
12 **Board amendment additions** are in double-underlined Arial font.  
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
14 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The Planning Department has determined that the actions contemplated in  
18 this ordinance comply with the California Environmental Quality Act (California Public  
19 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the  
20 Board of Supervisors in File No. 141098 and is incorporated herein by reference.

21 Section 2. Article 19H of the Health Code is hereby amended by revising and  
22 renumbering (new section numbers in parentheses) Sections 1009.50 (19H.1), 1009.51  
23 (19H.2), 1009.53 (19H.4), ~~1009.55 (19H.5)~~, 1009.56 (19H.9), 1009.57 (19H.10), 1009.58  
24 (19H.11), 1009.59 (19H.12), 1009.60 (19H.13), 1009.61 (19H.14), 1009.62 (19H.15), 1009.63  
25 (19H.16), 1009.64 (19H.17), 1009.66 (19H.19), 1009.68 (19H.21), and 1009.73 (19H.25);  
renumbering (new section numbers in parentheses) Sections 1009.52 (19H.3), 1009.54

1 (19H.7), 1009.55 (19H.8), 1009.65 (19H.18), 1009.67 (19H.20), 1009.69 (19H.22), 1009.71  
2 (19H.23), 1009.72 (19H.24), 1009.74 (19H.26), 1009.75 (19H.27), 1009.76 (19H.28), and  
3 1009.77 (19H.29); and adding Sections 19H.5 and 19H.6, resulting in Sections 19H.1-19H.29,  
4 to read as follows:

5 **SEC. ~~1009.50~~19H.1. FINDINGS.**

6 The Board of Supervisors of the City and County of San Francisco hereby finds and  
7 declares as follows:

8 (a) Tobacco is the leading cause of preventable death in the United States and kills nearly 6  
9 million people each year globally (World Health Organization 2013). According to the Centers for  
10 Disease Control and Prevention (CDC), more than 400,000 deaths in the United States each year are  
11 attributable to tobacco use, including one-third of all cancer deaths.

12 (b) In addition to the obvious adverse health impact, tobacco related death and disease have an  
13 adverse economic impact. The CDC reports that tobacco use costs the United States billions of dollars  
14 each year.

15 (c) A. State law prohibits the sale or furnishing of cigarettes, tobacco products and  
16 smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco  
17 products by minors. (California Penal Code section 308.) State law also prohibits public  
18 school students from smoking or using tobacco products while on campus, attending school-  
19 sponsored activities, or under the supervision or control of school district employees.  
20 (California Education Code section 48901(a).) In addition, state law prohibits smoking in  
21 enclosed places of employment. (California Labor Code section 6404.5.) Moreover, San  
22 Francisco has adopted ordinances that ban cigarette vending machines in the City (~~San~~  
23 ~~Francisco~~ Health Code Article 19Dsection 1009.1), prohibit pharmacy sales of Tobacco Products  
24 (~~San Francisco~~ Health Code Article 19.J), prohibit the self-service merchandising of Ttobacco  
25 Pproducts, except in places to which access by minors is prohibited by law (~~San Francisco~~

1 Police Code section 4600.3), ~~and~~ prohibit smoking in enclosed areas and sports stadiums (~~San~~  
2 ~~Francisco~~ Health Code ~~Article 19F~~~~section 1009.22~~) and prohibit the use of electronic cigarettes  
3 where smoking is not allowed (Health Code Article 19N).

4 (d) ~~B.~~ Despite these state and local restrictions, minors continue to obtain cigarettes  
5 and other ~~T~~tobacco ~~P~~products at alarming rates. 36.8% of California youth have smoked an entire  
6 cigarette by age 14 according to a 2012 survey conducted by the California Department of Public  
7 Health. The former United States Surgeon General Regina Benjamin at a February 2014 summit  
8 emphasized that the key factor in the fight against tobacco is preventing minors from becoming  
9 smokers. She noted, "for every smoker who dies, there are two so-called replacement smokers trying a  
10 cigarette for the first time and getting hooked." Children under the age of 18 consume 924 million  
11 packs of cigarettes annually in the United States. Over 29 million packs of cigarettes are sold to  
12 California children annually. More than 60 percent of all smokers begin smoking by the age of 14, and  
13 90 percent begin by age 19.

14 C. ~~In a 2002 California youth buying survey, 19.3 percent of retailers surveyed unlawfully~~  
15 ~~sold tobacco products to minors compared to 17.1 percent in 2001.~~

16 D. ~~California's rate of illegal tobacco sales to minors is steadily increasing. In 2002 the rate~~  
17 ~~was 19.3 percent, up from 17.1 percent in 2001, and 12.8 percent in 2000.~~

18 (e) Although it is unlawful to sell Tobacco Products and/or tobacco paraphernalia to minors,  
19 in a 2013 California youth buying survey, 7.6% of retailers surveyed unlawfully sold Tobacco Products  
20 to minors. These percentages are more concerning locally. San Francisco's Tobacco Sales to minors  
21 were reported to be 13.4% of retailers in 2012. Notably, sales in the City to minors are well above the  
22 2012 statewide sales rate of 8.7%. More aggressive policies are needed to keep San Francisco's youth  
23 from gaining access to Tobacco Products.

24 (f) ~~E.~~ There are approximately 1,001 970 outlets in San Francisco that are licensed to sell  
25 tobacco, that is about 1 retailer for every 111 youth kids in the community compared to California

1 generally where there are approximately 36,700 licensed tobacco retail stores in California – one for  
2 every 254 youth children. The California Department of Health Services reports that 26.7 percent of  
3 California adolescents believe it is easy to buy a pack of cigarettes.

4 ~~F. Despite active enforcement by the San Francisco Police Department, a significant number~~  
5 ~~of retailers continue to sell tobacco illegally to minors. The rate of illegal tobacco sales documented by~~  
6 ~~the Police Department during 2001 was 25.3 percent and 20.2 percent in 2002.~~

7 ~~G. In a youth decoy operation conducted by the Police Department, 50 percent of the 12 bars~~  
8 ~~visited illegally sold tobacco to a minor.~~

9 (g) H. San Francisco has a substantial interest in promoting compliance with State  
10 laws prohibiting sales of cigarettes and ~~†Tobacco~~ ~~‡Products~~ to minors, in promoting  
11 compliance with laws intended to discourage the purchase of ~~†Tobacco~~ ~~‡Products~~ by minors,  
12 and in protecting our children from illegally obtained tobacco.

13 (h) Social norms about smoking influence smoking rates, particularly among those not  
14 addicted. Studies have found that strong governmental regulation of smoking corresponds with and  
15 may contribute to anti-smoking norms. Social unacceptability has been repeatedly shown to be an  
16 important influence on both smoking rates and anti-smoking norms. Children and young people are  
17 particularly influenced by cues suggesting smoking is acceptable.

18 (i) Empirical research connects lower densities of retail outlets with lower consumption of  
19 tobacco, particularly among youth. Higher tobacco retail density encourages smoking by making  
20 cigarettes more accessible and available, by normalizing tobacco use, and through increasing  
21 environmental cues to smoke. Research focused on California has found a higher prevalence of  
22 current smoking and experimental smoking among students at schools in areas with a higher density of  
23 tobacco outlets. Prevalence of smoking was higher among students at schools in neighborhoods with  
24 five or more stores that sell tobacco than among students at schools in neighborhoods without any  
25 stores that sell tobacco.

1 (j) California communities in lower socio-economic areas with a higher concentration of  
2 convenience stores have significantly higher rates of smoking. Residents of these neighborhoods are  
3 more at risk for tobacco related disease and death. Likewise, San Francisco's most disadvantaged  
4 neighborhoods are disproportionately impacted by high tobacco retail density. The six supervisorial  
5 districts with the highest proportions of tobacco retail sales by population (Districts 3, 5, 6, 9, 10, and  
6 11) also have the lowest median household incomes in the City. District Six, with a median household  
7 income of \$38,610, has 270 tobacco permits while District Two, with a median household income of  
8 \$102,457, has only 51 tobacco permits. African American and Latino residents are more likely to live  
9 in districts with the highest number of tobacco retail outlets.

10 (k) As the tobacco related public health crisis affects all supervisorial districts in San  
11 Francisco, it is in the City's interest to reduce the disproportionate exposure to tobacco outlets that  
12 exists among supervisorial districts and to minimize exposure in all supervisorial districts by limiting  
13 the number of new tobacco permits issued. District Seven currently has the lowest number(37) (five) of  
14 tobacco permitted retailers per 10,000 residents in San Francisco. Setting a cap slightly above the  
15 District Seven density of permitted tobacco retailers as the maximum for each supervisorial district will  
16 begin to address the disparity of exposure to tobacco outlets among supervisorial districts and reduce  
17 the density of tobacco vendors overall.

18 (l) San Franciscans support limiting and reducing the number of permits for the sale of  
19 tobacco. In a 2012 representative survey of over 220 San Francisco residents, 88.5% felt that too  
20 many stores selling cigarettes is bad for community health; almost 74% would support a law that  
21 very gradually reduces the number of stores selling cigarettes and Tobacco Products given that the  
22 highest density of these is in low income neighborhoods; and 87% would support a policy that would  
23 reduce the amount of Tobacco Products available.

24 (m) Restaurants, and other non-traditional tobacco retailers in California are more likely to  
25 sell tobacco to minors than other retailers. 13.1% percent of restaurants and other

1 nontraditional retailers sold tobacco to minors compared to 8.7% of all other California  
2 retailers. had the highest illegal sale rate to minors, 20.3% or higher on average and nearly  
3 three times higher than traditional tobacco retailers.

4 (n) Young adult Bar patrons in one California study reported a current smoking rate of 47  
5 percent, nearly four times the 2010 state rate of smoking prevalence for young adults.

6 (o) Social environments such as Bars and clubs are important venues for public health efforts  
7 to address young adult smoking.

8 (p) ~~∫~~ This Article 19H is designed to promote the public interest in ensuring that San  
9 Francisco businesses operate in compliance with applicable laws regulating tobacco,  
10 including laws prohibiting the sale of tobacco to minors and laws regulating smoking.

11 ~~I. Requiring tobacco vendors to obtain a tobacco sales permit will not unduly burden~~  
12 ~~legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to~~  
13 ~~adults. It will, however, allow the City to regulate those establishments selling tobacco products to~~  
14 ~~ensure that they comply with federal, state, and local tobacco laws.~~

15  
16 **SEC. ~~1009.51~~19H.2. DEFINITIONS.**

17 The following words and phrases, whenever used in this Article, shall be construed as  
18 defined in this section. Words in the singular include the plural and words in the plural include  
19 the singular. Words in the present tense include the future.

20 "Application" means the application submitted under Section 19H.4 for a Tobacco Sales permit  
21 allowing the person or business to engage in the sale of tobacco products at an Establishment.

22 "Bar" means an area, whether a separate, stand-alone business or part of a larger business  
23 which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and  
24 in which the serving of food is incidental to the consumption of such beverages.

1 "Cap" means the figure set forth in Section 19H.5 and represents the total number of permitted  
2 Establishments that may operate in each supervisorial district.

3 "Change of Ownership" means a change of 50 percent or more of the ownership of the  
4 business within a 12-month period; provided, however, that if the Permittee is a corporation, transfer  
5 of 25 percent of the stock ownership of the permittee shall be deemed to be a Change of Ownership.

6 "Density Cap" has the same meaning as "Cap."

7 (a) "Department" means the Department of Public Health.

8 (b) "Director" means the Director of Health or his or her designee.

9 "District Population" means the population reported by the Department of Elections in each of  
10 the 11 supervisorial districts as required by Charter Section 13.110.

11 (c) "Establishment" means any store, stand, booth, concession or any other enterprise  
12 that engages in the retail sale of ~~t~~Tobacco ~~p~~Products, and includes ing stores engaged ing in  
13 the retail sale of food items.

14 (d) "Permittee" means a person who has obtained a ~~t~~Tobacco ~~s~~Sales permit for a  
15 specific location pursuant to this Article.

16 (e) "Person" means any individual, partnership, cooperative association, private  
17 corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

18 "Restaurant" means a business retail food Establishment that primarily stores, packages,  
19 serves, vends, or otherwise prepares food for human consumption on the premises. "Restaurant"  
20 includes, but is not limited to businesses Establishments primarily engaged in providing (1) food  
21 services to patrons who order and are served while seated on the premises, and pay after eating, and  
22 (2) food services where patrons generally order and pay before eating on the premises, ~~or (3) take-~~  
23 out food services where patrons order ready to eat food generally intended for consumption  
24 off the premises. "Restaurant" also includes separately owned food facilities that are located in a  
25 grocery store but does not include the grocery store.

1 "School" means a public or private kindergarten, elementary, middle, junior high or high  
2 school, or a school combining some or all of the above school grades.

3 ~~(f)~~ "Tobacco ~~P~~products" means tobacco and any substance containing tobacco leaf,  
4 including but not limited to cigarettes, electronic cigarettes, cigars, pipe tobacco, snuff, chewing  
5 tobacco, dipping tobacco, or any other preparation of tobacco, including the cigarettes  
6 commonly known as bidis.

7 ~~(g)~~ "Tobacco ~~s~~Sales" means sales, or any offer to sell or exchange, for any form of  
8 consideration, ~~t~~Tobacco ~~p~~Products to any person by any person who operates an  
9 ~~e~~Establishment. "Tobacco ~~s~~Sales" includes any display of ~~t~~Tobacco ~~p~~Products.

10 "Tobacco Shop" means any tobacco retailer whose principal business is selling Tobacco  
11 Products, tobacco paraphernalia, or both, as evidenced by any of the following: 50% or more of floor  
12 area and display area is devoted to the sale or exchange of Tobacco Products, tobacco paraphernalia,  
13 or both; 70% or more of gross sales receipts are derived from the sale or exchange of Tobacco  
14 Products, tobacco paraphernalia, or both; or 50% or more of completed sales transactions include a  
15 Tobacco Product or tobacco paraphernalia.

16 **SEC. ~~1009.5219H.3~~. REQUIREMENT FOR TOBACCO SALES PERMIT.**

17 \* \* \* \*

18 **SEC. ~~19H.41009.53~~. APPLICATION PROCEDURE: INSPECTION OF PREMISES;**  
19 **ISSUANCE AND DISPLAY OF PERMIT.**

20 (a) **Application.** An ~~a~~Application for a ~~t~~Tobacco ~~s~~Sales permit shall be  
21 submitted in the name of the person(s) proposing to engage in the sale of ~~t~~Tobacco ~~p~~Products  
22 and shall be signed by each person or an authorized agent thereof. The ~~a~~Application shall be  
23 accompanied by the appropriate fees as described in section 35 of the *San Francisco* Business  
24 and Tax Regulations Code and such fees shall include any required inspections or other work  
25 performed by the Planning Department as required by the referral of the application. A separate

1 aApplication is required for each location where tTobacco sSales are to be conducted. All  
2 aApplications shall be submitted on a form supplied by the Department and shall contain the  
3 following information:

4 1. The name, address, email address, and telephone number of the  
5 aApplicant;

6 2. The e Establishment name, address, email address, and telephone  
7 number for each location for which a tTobacco sSales permit is sought;

8 3. Such other information as the Director deems appropriate, including  
9 the aApplicant's type of business, and whether the aApplicant has previously been issued a  
10 permit under this Article that is, or was at any time, suspended or revoked. No permit shall be  
11 issued if the Application is incomplete or inaccurate.

12 (b) **Inspection by Director.** Upon receipt of a completed aApplication and  
13 fees, the Director may inspect the location at which tTobacco sSales are to be permitted. The  
14 Director may also ask the aApplicant to provide additional information that is reasonably  
15 related to the determination whether a permit may issue.

16 (c) **Referral to the Planning Department.** The Director will then refer the  
17 Applications requiring inspection as to proximity to Schools and existing Establishments to the  
18 Planning Department. The Planning Department upon referral shall analyze the Application against  
19 the most recent data provided by the Department to determine whether the Applicant's location will  
20 comply with subsections (f)(3) and (f)(4) and whether the location qualifies as a Tobacco Shop.

21 (d)(e) **Issuance of Permit.** If the Director is satisfied that the aApplicant has  
22 met the requirements of this Article and that issuance of the permit will not violate any law, the  
23 Department shall issue the permit. An Establishment may not sell Tobacco Products until the permit  
24 is issued. No permit shall issue if the Director finds that the Applicant is in violation of San Francisco  
25 Health Code section 1009.1 (regulating cigarette vending machines), San Francisco Police Code

1 ~~section 4600.3 (regulating the self-service merchandising of tobacco products), if the Applicant is a~~  
2 ~~pharmacy prohibited from selling tobacco products under Article 19J. No permit shall issue if the~~  
3 ~~Application is incomplete or inaccurate.~~

4 ~~(e)-(d)~~ **Display of Permit.** Each permittee shall display the permit prominently at  
5 each location where ~~T~~Tobacco ~~s~~Sales occur. No permit that has been suspended shall be  
6 displayed during the period of suspension. A permit that is revoked is void and may not be  
7 displayed.

8 **(f) Grounds for Denial.**

9 (1) No new permit shall be issued if the Director finds that the Applicant is in  
10 violation of Health Code Article 19; Police Code Section 4600.3 (regulating the self-service  
11 merchandising of tobacco products), or the California Labor Code.

12 (2) No new permit shall be issued if the Applicant does not have a valid current  
13 Tobacco Retail Permit from the State Board of Equalization where the Applicant is required to have the  
14 State Board of Equalization permit except for businesses selling only electronic cigarettes.

15 (3) No new permit shall be issued if the Applicant will be within 500 feet of the  
16 nearest point of the property line of a ~~s~~School as measured by a straight line from the nearest point of  
17 the property line on which a ~~s~~School is located to the nearest point of the property line on which the  
18 Applicant's Establishment will be located.

19 (4) No new permit shall be issued if the Applicant will be located within 500 feet  
20 of the nearest point of the property line of an existing Establishment as measured by a straight line  
21 from the nearest point of the property line on which the Applicant's Establishment will be located to the  
22 nearest point of the property line of the existing Establishment.

23 (5) No new permit shall be issued in any supervisorial district that has 45 or  
24 more Establishments with Tobacco Sales permits.

1                   (6) No new permit shall be issued to any Applicant whose main purpose is  
2 offering food or alcoholic beverages for sale for consumption on the premises, including Bars and  
3 Restaurants.

4                   (7) No new permit shall be issued to any Applicant for operation of a Tobacco  
5 Shop.

6                   (8) No new permit shall be issued for a location not previously occupied by a  
7 permitted Establishment.

8                   (g) Pending Applications. Applications that have been submitted to the Director for  
9 approval as of December 9, 2014 shall not be subject to the Section 19H.4(f)(2)-19H.4(f)(8)  
10 and Section 19H.5.

11  
12                   **SEC. 19H.5 DENSITY CAP**

13                   (a) The Density Cap shall be forty-five (45) permitted Tobacco Sales Establishments in a  
14 supervisory district. The Department shall assess the Density Cap every two years to evaluate  
15 whether to recommend to the Board of Supervisors an amendment to this Article to change the number  
16 of permitted Establishments as reasonably necessary to advance the public health purposes this Article  
17 seeks to achieve. The City may not issue a new permit in any supervisory district that is at or above  
18 the Density Cap at the time of submission of the Application.

19                   (b) Pursuant to its authority under Section 19H.26 to adopt rules, the Department may adopt  
20 rules governing the approval process for application submitted in a supervisory district where the  
21 number of permits has fallen below the cap, including rules on the timing for the approval process.

22                   **SEC. 19H.6. EXCEPTIONS FOR CERTAIN NEW PERMITS. INTERIM EXCEPTION**  
23 **FOR NEW PERMITS WHERE SALE OF THE ESTABLISHMENT IS PENDING.**

24                   Notwithstanding Section 19H.5 and Sections 19H.4(f)(3),(4),(5) and (7):  
25

1           (a) If an owner of a retail food store establishment as defined in the Planning Code or  
2 Tobacco Shop who holds a Tobacco Sales permit and has been in business for five years as  
3 of the effective date of this Section 19H.6, submits an affidavit to the Director that attests to  
4 ownership of the business at the same location and under the same Tobacco Sales permit for  
5 five consecutive years immediately preceding submission of the affidavit and that also states  
6 that the owner is in negotiations with a specific buyer for the retail food store establishment or  
7 Tobacco Shop at that location, then that buyer ("new buyer") may apply for, and the Director  
8 may issue, a Tobacco Sales permit to the new buyer for the retail food store establishment or  
9 Tobacco Shop at that location, on a one-time basis.

10           (b) If the new buyer submits an affidavit to the Director, stating that the new buyer has  
11 been in business continuously as a retail food store establishment or Tobacco Shop at that  
12 same location under the Tobacco Sales permit obtained in accordance with subsection (a)  
13 and also states that the new buyer has held the permit for at least 10 years, then a  
14 subsequent buyer of the retail food store establishment or Tobacco Shop at that location  
15 ("subsequent buyer") may apply for, and the Director may issue, a Tobacco Sales permit to  
16 the subsequent buyer for the retail food store establishment or Tobacco Shop on a one-time  
17 basis.

18           (c) Where the owner of a retail food store establishment or Tobacco Shop that holds a  
19 Tobacco Sales permit as of the effective date of this Section 19H.6, a child of the owner may  
20 apply for, and the Director may issue, a Tobacco Sales permit to the child for that retail food  
21 store establishment or Tobacco Shop at that location.

22           (d) An owner of a retail food store establishment or Tobacco Shop holding a Tobacco  
23 Sales permit as of the effective date of this Section 19H.6, who must relocate under Chapter  
24 34B of the Building Code may apply for, and the Director may issue, a new Tobacco Sales  
25 permit for the location of the owner's retail food store establishment or Tobacco Shop.

1           (e) An owner of a Bar or Tavern (cigar or smoking bar) who qualified for an exemption  
2 under Section 1009.23(d) of this Code who holds a Tobacco Sales permit and has been in  
3 business for five years as of the effective date of this Section 19H.6, who submits an affidavit  
4 to the Director that attests to ownership of the business at the same location and under the  
5 same Tobacco Sales permit for five consecutive years immediately preceding submission of  
6 the affidavit and that also states that the owner is in negotiations with a specific buyer for the  
7 Cigar or Smoking Bar at that location, then that buyer ("new buyer") may apply for, and the  
8 Director may issue, a Tobacco Sales permit to the new buyer for the Cigar or Smoking Bar at  
9 that location, on a one-time basis.

10           (f) If the new buyer submits an affidavit to the Director, stating that the new buyer has  
11 been in business continuously as a Cigar or Smoking Bar at that same location under the  
12 Tobacco Sales permit obtained in accordance with subsection (a) and also states that the new  
13 buyer has held the permit for at least 10 years, then a subsequent buyer of the Cigar or  
14 Smoking Bar at that location ("subsequent buyer") may apply for, and the Director may issue,  
15 a Tobacco Sales permit to the subsequent buyer for the Cigar or Smoking Bar on a one-time  
16 basis.

17           (g) If a spouse or domestic partner acquires the ownership of an Establishment  
18 through the death of, or divorce from the owner identified on the permit and submits an  
19 affidavit to the Director attesting to the acquisition of the Establishment accompanied by any  
20 documentation requested by the Director, the Director may issue a Tobacco Sales permit to  
21 the Applicant spouse or domestic partner on a one-time basis.

22  
23 Applications submitted under Section 19H.4 on or before September 1, 2014 for a new permit  
24 subject to Section 19H.5 where an Establishment has held a permit to sell Tobacco Products  
25 for or more years at the location subject to the sale if the Establishment submits an affidavit to

1 accompany the Application stating that no change of ownership has occurred within the prior  
2 seven years and that the current permit holder had been in contract with a buyer of the  
3 Establishment as of September 1, 2014.

4  
5  
6 **SEC. ~~19H.71009.54~~. PERMIT AND ANNUAL LICENSE FEES.**

7 (a) The Department shall charge every applicant for a tobacco sales permit a non-  
8 refundable application fee for the initial inspection and processing of the application and an  
9 annual license fee sufficient to cover the costs of annual inspections, as determined by the  
10 Director . The application and processing fee shall be \$53 and is covered by Section 35 of  
11 the San Francisco Business and Tax Regulations Code. The annual fee is listed in Section  
12 249.16 of the San Francisco Business and Tax Regulations Code. The Fee shall be due  
13 annually on March 31 of each year, pursuant to Section 76.1, Article 2 of the San Francisco  
14 Business and Tax Regulations Code.

15 \* \* \* \*

16 **SEC. ~~19H.81009.55~~. PERMIT MAY NOT BE TRANSFERRED TO NEW PERSONS OR**  
17 **LOCATIONS.**

18 \* \* \* \*

19 **SEC. ~~19H.91009.56~~. ENFORCEMENT AND INSPECTION.**

20 The Director may enforce all provisions of this Article. Specific grounds for  
21 enforcement are set forth in sections ~~19H.101009.57~~ through ~~19H.181009.65~~. Upon presentation  
22 of proper credentials, the Director may enter and inspect at any time during regular business  
23 hours any ~~e~~Establishment that is engaging in ~~t~~Tobacco ~~s~~Sales, or is suspected by the Director  
24 of engaging in such sales.

1           **SEC. 19H.101009.57. CONDUCT VIOLATING ~~SAN FRANCISCO~~ HEALTH CODE**  
2 **ARTICLE 19DSECTION 1009.1 (REGULATING CIGARETTE VENDING MACHINES).**

3           (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or  
4 employee has engaged in any conduct that violates *San Francisco* Health Code Article  
5 19Dsection 1009.1 (regulating cigarette vending machines), the Director may suspend a ~~t~~  
6 Tobacco Sales permit as set forth in section 19H.191009.66, impose administrative penalties  
7 as set forth in section 19H.201009.67, or both suspend the permit and impose administrative  
8 penalties.

9           (b) The Director shall commence enforcement of this section by serving either a  
10 notice of correction under section 19H.211009.68 of this Article or a notice of initial  
11 determination under section 19H.221009.69 of this Article.

12           **SEC. 19H.111009.58. CONDUCT VIOLATING ~~SAN FRANCISCO~~ POLICE CODE**  
13 **SECTION 4600.3 (REGULATING THE SELF-SERVICE MERCHANDISING OF TOBACCO**  
14 **PRODUCTS).**

15           (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or  
16 employee has engaged in any conduct that violates *San Francisco* Police Code section 4600.3  
17 (regulating the self-service merchandising of tobacco products), the Director may suspend a  
18 ~~t~~Tobacco sales permit as set forth in section 19H.191009.66, impose administrative penalties  
19 as set forth in section 19H.201009.67, or both suspend the permit and impose administrative  
20 penalties.

21           (b) The Director shall commence enforcement of this section by serving either a  
22 notice of correction under section 19H.211009.68 of this Article or a notice of initial  
23 determination under section 19H.221009.69 of this Article.

1           **SEC. ~~19H.121009.59~~. CONDUCT VIOLATING ~~SAN FRANCISCO~~ HEALTH CODE**  
2 **~~ARTICLE 19FSECTION 1009.22~~ (PROHIBITING SMOKING IN ENCLOSED AREAS AND**  
3 **SPORTS STADIUMS).**

4           (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or  
5 employee has engaged in any conduct that violates ~~San Francisco~~ Health Code ~~Article~~  
6 ~~19Fsection 1009.22~~ (prohibiting smoking in enclosed areas and sports stadiums), the Director  
7 may suspend a ~~t~~Tobacco ~~s~~Sales permit as set forth in section ~~19H.191009.66~~, impose  
8 administrative penalties as set forth in section ~~19H.201009.67~~, or both suspend the permit and  
9 impose administrative penalties.

10          (b) The Director shall commence enforcement of this section by serving either a  
11 notice of correction under section ~~19H.211009.68~~ of this Article or a notice of initial  
12 determination under section ~~19H.221009.69~~ of this Article.

13           **SEC. ~~19H.131009.60~~. CONDUCT VIOLATING TOBACCO CONTROL LAWS.**

14          (a) If the Director decides that the ~~p~~Permittee or the ~~p~~Permittee's agent or employee  
15 has engaged in any conduct that violates local, state, or federal law applicable to ~~t~~Tobacco  
16 ~~p~~Products or ~~t~~Tobacco ~~s~~Sales, including Administrative Code Chapter 105 (imposing Cigarette  
17 Litter Abatement Fee), the Director may suspend a ~~t~~Tobacco ~~s~~Sales permit as set forth in  
18 section ~~19H.191009.66~~, impose administrative penalties as set forth in section ~~19H.201009.67~~,  
19 or both suspend the permit and impose administrative penalties.

20          (b) The Director shall commence enforcement of this section by serving either a  
21 notice of correction under section ~~19H.211009.68~~ of this Article or a notice of initial  
22 determination under section ~~19H.221009.69~~ of this Article.

23           **SEC. ~~19H.141009.61~~. CONDUCT VIOLATING CALIFORNIA PENAL CODE SECTION**  
24 **308 (PROHIBITING THE SALE OF TOBACCO TO MINORS).**

1 (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or  
2 employee has engaged in any conduct that violates California Penal Code section 308  
3 (prohibiting the sale of tobacco to minors), the Director may suspend a tobacco sales permit  
4 as set forth in section 19H.191009.66.

5 (b) The Director shall commence enforcement of this section by serving a notice of  
6 initial determination in accordance with section 19H.221009.69 of this Article.

7 **SEC. 19H.151009.62. CONDUCT VIOLATING CALIFORNIA LABOR CODE SECTION**  
8 **6404.5 (PROHIBITING SMOKING IN ENCLOSED PLACES OF EMPLOYMENT).**

9 (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or  
10 employee has engaged in any conduct that violates California Labor Code section 6404.5  
11 (prohibiting smoking in enclosed places of employment), the Director may suspend a tobacco  
12 sales permit as set forth in section 19H.191009.66.

13 (b) The Director shall commence enforcement of this section by serving a notice of  
14 initial determination in accordance with section 19H.221009.69 of this Article.

15 **SEC. 19H.161009.63. FRAUDULENT PERMIT APPLICATIONS.**

16 (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or  
17 employee has obtained tobacco ~~s~~ales permit from the Department by fraudulent or willful  
18 misrepresentation, the Director may suspend a ~~t~~Tobacco ~~s~~Sales permit as set forth in section  
19 19H.191009.66.

20 (b) Upon a final decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's  
21 agent or employee has obtained a ~~t~~Tobacco ~~s~~Sales permit from the Department by fraudulent  
22 or willful misrepresentation, the Director may impose administrative penalties as set forth in  
23 section 19H.201009.67.

1 (c) Upon a final decision by the Director that the *p*Permittee or the *p*Permittee's  
2 agent or employee has obtained a *t*Tobacco *s*Sales permit from the Department by fraudulent  
3 or willful misrepresentation, the Director may revoke a *t*Tobacco *s*Sales permit.

4 (d) Upon a final decision by the Director that the *p*Permittee or the *p*Permittee's  
5 agent or employee has obtained a *t*Tobacco *s*Sales permit from the Department by fraudulent  
6 or willful misrepresentation, the Director may impose administrative penalties in addition to  
7 either suspending or revoking the *t*Tobacco *s*Sales permit.

8 (e) The Director shall commence enforcement of this section by serving a notice of  
9 initial determination in accordance with section ~~19H.221009.69~~ of this Article.

10 (f) Any person who obtained a permit by fraud or misrepresentation may be  
11 prosecuted for either an infraction or a misdemeanor punishable by a fine not to exceed one  
12 hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation  
13 within one year, and five hundred dollars (\$500) for a third and for each subsequent violation  
14 within one year.

15 **SEC. ~~19H.171009.64~~ SELLING TOBACCO WITHOUT A PERMIT.**

16 (a) Upon a final decision by the Director that any person has engaged in the  
17 sale of tobacco at any *Establishment* without a permit, the Director may impose administrative  
18 penalties as set forth in section ~~19H.201009.67~~.

19 (b) The Director shall commence enforcement of this section by serving a notice  
20 of initial determination in accordance with section ~~19H.221009.69~~ of this Article. This Notice of  
21 Initial Determination may require that all tobacco sales cease and may impose an  
22 administrative penalty.

23 (c) The City Attorney may maintain an action for injunction to restrain any  
24 person from selling tobacco without a valid tobacco sales permit. In any such action, the City  
25 Attorney may seek civil penalties and may seek a judicial determination that a person must

1 pay any administrative penalties. The person against whom an injunction issues also shall be  
2 liable for the costs and attorney's fees incurred by the City and County of San Francisco in  
3 bringing a civil action to enforce the provisions of the section.

4 (d) Any person who engages in tobacco sales without the required permit may  
5 be prosecuted for either an infraction or a misdemeanor punishable by a fine not to exceed  
6 one hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second  
7 violation within one year, and five hundred dollars (\$500) for a third and for each subsequent  
8 violation within one year.

9  
10 **SEC. 19H.181009.65. OTHER ENFORCEMENT.**

11 \* \* \* \*

12 **SEC. 19H.191009.66 TIME PERIOD OF SUSPENSION OF PERMIT.**

13 When this Article allows the Director to suspend a permit, the following sanctions may  
14 be imposed:

15 (a) The Director may suspend the permit for a maximum of 90 days for the first  
16 violation.

17 (b) If a second violation occurs within twelve months of the first violation, the  
18 Director may suspend the permit for a maximum of six months.

19 (c) Upon the third violation, ~~and each subsequent violation~~, if within twelve months  
20 of the prior violation, the Director may suspend the permit for a maximum of one year.

21 (d) Each suspension is an independent sanction and is served consecutively.

22 **SEC. 19H. 201009.67. ADMINISTRATIVE PENALTY.**

23 \* \* \* \*

24 **SEC. 19H.211009.68. NOTICE OF CORRECTION.**

1           When the Director commences an enforcement action with a notice of correction, the  
2 Director shall serve the notice on the pPermittee or the pPermittee's agent. The notice shall  
3 state that the Department has determined that a violation may have occurred and that  
4 reasonable grounds exist to support this determination. The notice may require corrective  
5 action immediately or upon a schedule required by the Director. The Director may require the  
6 pPermittee to post the notice of correction at the location where the Department alleges that  
7 violations have occurred. If the pPermittee fails to obey a notice of correction, the Director may  
8 serve a notice of initial determination in accordance with section ~~19H.221009.69~~ of this Article.  
9  
10

11           **SEC. ~~19H.221009.69~~. NOTICE OF INITIAL DETERMINATION.**

12           \* \* \* \*

13           **SEC. ~~19H.231009.71~~. PAYMENT OF ADMINISTRATIVE PENALTIES.**

14           \* \* \* \*

15           **SEC. ~~19H.241009.72~~. APPEALS TO BOARD OF APPEALS.**

16           \* \* \* \*

17           **SEC. ~~19H.251009.73~~. OTHER REMEDIES.**

18           Nothing in this Article shall affect any other remedies which are available to the City  
19 and County under any law, including (1) ~~San Francisco~~ Health Code ~~Article 19D~~section ~~1009.1~~  
20 (regulating cigarette vending machines); (2) ~~San Francisco~~ Police Code section 4600.3  
21 (regulating the self-service merchandising of tobacco products); (3) ~~San Francisco~~ Health Code  
22 ~~Article 19F~~section ~~1009.22~~ (prohibiting smoking in enclosed areas and sports stadiums); (4)  
23 California Penal Code section 308 (regulating sales of tobacco products to minors); and (5)  
24 California Labor Code section 6404.5 (prohibiting smoking in enclosed places of  
25 employment).

1           **SEC. 19H.261009.74. AUTHORITY TO ADOPT RULES AND REGULATIONS.**

2           \* \* \* \*

3           **SEC. 19H.271009.75. CITY UNDERTAKING LIMITED TO PROMOTION OF THE**  
4 **GENERAL WELFARE.**

5           \* \* \* \*

6           **SEC. 19H.281009.76. PREEMPTION.**

7           \* \* \* \*

8           **SEC. 19H.291009.77. SEVERABILITY.**

9           \* \* \* \*

10           Section 3. The Business and Tax Regulations Code is hereby amended by revising  
11 Section 249.16, to read as follows:

12  
13           **SEC. 249.16. TOBACCO LICENSE PERMIT FEE.**

14           Every person, firm or corporation engaged in tobacco sales shall pay an annual license  
15 fee of ~~\$188~~ \$200 to the Tax Collector. The amount of the fee shall be determined and  
16 published annually by the Department of Health based on the initial amount of \$188 set in  
17 Ordinance 149-08 and adjusted thereafter under Section 76.1(c) of the Business and Tax  
18 Regulations Code. The license fee set forth in this Section shall be paid annually on or before  
19 March 31, in accordance with the provisions of Section 76.1 of the Business and Tax  
20 Regulations Code.

21           Section 4. Effective Date. This ordinance shall become effective 30 days after  
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
24 of Supervisors overrides the Mayor's veto of the ordinance.

1 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the "Note" that appears under  
6 the official title of the ordinance.

7 Section 6. No Conflict with Federal or State Law. Nothing in this ordinance shall be  
8 interpreted or applied so as to create any requirement, power, or duty in conflict with any  
9 federal or state law.

10  
11 APPROVED AS TO FORM:  
12 DENNIS J. HERRERA, City Attorney

13 By: \_\_\_\_\_  
14 ALEETA M. VAN RUNKLE  
Deputy City Attorney

15 n:\leganas2014\1300508\00965737.doc  
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**From:** RUSSIANFOK@aol.com  
**Sent:** Tuesday, December 23, 2014 5:07 PM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Cc:** rckaris@gmail.com  
**Subject:** OBJECTION TO HOOKAH LOUNGE OCEAN ST, SF

**Categories:** 141291

*PLEASE MAKE A NOTE THAT WE, RESIDENTS OF INGLESIDE TERRACES OBJECT AND STRONGLY REQUEST THAT THERE WOULD BE NO HOOKAH LOUNGE/STORE ON OCEAN STREET, IN SAN FRANCISCO!  
THANK YOU.  
HAPPY HOLIDAYS!  
NIKOLAI, DOUCE ANN, MASSENKOFF  
735 URBANO DRIVE  
SAN FRANCISCO, CA 94127*

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**From:** Board of Supervisors (BOS)  
**Sent:** Tuesday, December 23, 2014 3:02 PM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Opposition to vape shop on Ocean Avenue

**Categories:** 141291

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**From:** Linda McGilvray [<mailto:linda.mcgilvray@gmail.com>]  
**Sent:** Tuesday, December 23, 2014 2:03 PM  
**To:** Board of Supervisors (BOS); Yee, Norman (BOS); BOS Legislation (BOS)  
**Cc:** Robert Karis  
**Subject:** Opposition to vape shop on Ocean Avenue

Dear Board of Supervisors,

The neighbors in Ingleside Terraces are very concerned about the final motion of the Planning Commission regarding the proposed vape shop at 1963 Ocean Avenue. Many feel that this business does not meet the objectives listed within the final motion. Even though some studies say the vapors are not harmful, others disagree. There's even the real chance that these e-cigarettes could lead to a smoking addiction. The neighbors with adjoining properties are certainly opposed to such activities that would pollute the air right outside the back of their homes. There also are a couple of private schools and Aptos school students in the area that might be influenced by the wares. They walk home down Ocean Ave. Trying to improve the quality of retail establishments on Ocean Avenue has been the focus, even though a few questionable shops have opened. It's one thing to have diversity in the shops but another to have unsuitable ones for youth and the neighborhood welfare. There are other stores selling e-cigarettes in the immediate vicinity within the 500 feet limit of the proposed vape shop, making neighbors wonder why another one is needed. Please consider the plight of the neighbors and welfare of the neighborhood in considering licensing this shop.

Thanks for your consideration.

Linda McGilvray  
Ingleside Terraces resident

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**From:** Linda McGilvray [linda.mcgilvray@gmail.com]  
**Sent:** Tuesday, December 23, 2014 2:03 PM  
**To:** Board of Supervisors (BOS); Yee, Norman (BOS); BOS Legislation (BOS)  
**Cc:** Robert Karis  
**Subject:** Opposition to vape shop on Ocean Avenue  
**Categories:** 141291

Dear Board of Supervisors,

The neighbors in Ingleside Terraces are very concerned about the final motion of the Planning Commission regarding the proposed vape shop at 1963 Ocean Avenue. Many feel that this business does not meet the objectives listed within the final motion. Even though some studies say the vapors are not harmful, others disagree. There's even the real chance that these e-cigarettes could lead to a smoking addiction. The neighbors with adjoining properties are certainly opposed to such activities that would pollute the air right outside the back of their homes. There also are a couple of private schools and Aptos school students in the area that might be influenced by the wares. They walk home down Ocean Ave. Trying to improve the quality of retail establishments on Ocean Avenue has been the focus, even though a few questionable shops have opened. It's one thing to have diversity in the shops but another to have unsuitable ones for youth and the neighborhood welfare. There are other stores selling e-cigarettes in the immediate vicinity within the 500 feet limit of the proposed vape shop, making neighbors wonder why another one is needed. Please consider the plight of the neighbors and welfare of the neighborhood in considering licensing this shop.

Thanks for your consideration.

Linda McGilvray  
Ingleside Terraces resident

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**From:** Board of Supervisors (BOS)  
**Sent:** Monday, December 22, 2014 3:53 PM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: 1963 Ocean Ave San Francisco

**Categories:** 141291

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**From:** Nancy Lewellen [<mailto:NYL@PalladianLawGroup.com>]  
**Sent:** Monday, December 22, 2014 12:40 PM  
**To:** Board of Supervisors (BOS)  
**Subject:** 1963 Ocean Ave San Francisco

I would like to go on record as opposing the proposed e-cigarette and vapor shop at the above address. I have lived in Ingleside Terraces for 40 years and have watched this block of Ocean Ave go to the dogs with a massage parlor, tattoo parlor, billiards hall and now this. This is a wealthy neighborhood, NOT THE TENDERLOIN, that needs regular merchants.

It is close to 2 schools, and I understand a new ordinance would make the vicinity of this cigarette shop illegal. There are more vacancies going up on this block with the closing of In Style and Kimura Gallery. Surely other businesses would be a better fit for this family neighborhood. What were you thinking?

Sincerely,

Nancy Lewellen, Esq.  
Palladian Law Group  
605 Market Street Suite 505  
San Francisco, CA 94105  
Tel: (415) 399-0993 Fax: (415) 202-6474

<http://www.palladianlawgroup.com>

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**From:** Susanne DeRisi [sderisi@gmail.com]  
**Sent:** Saturday, December 20, 2014 4:56 PM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS); Boudreaux, Marcelle (CPC)  
**Cc:** rckaris@gmail.com  
**Subject:** Re: Case No. 2014.0206C; 1963 Ocean Avenue; 'Happy Vape'

**Categories:** 141291

Dear Board of Supervisors:

I am writing to oppose establishment of a tobacco retailer and hookah lounge, 'Happy Vape', at 1963 Ocean Avenue. I understand that you have a hearing scheduled for Tuesday, January 13, 2015 at 3 P.M.

As a parent of school age children, I am opposed to establishment of this tobacco/e-cigarette retailer and hookah lounge at a location near to so many schools. The Voice of Pentecost Academy (PreK-12<sup>th</sup> grade) at 1970 Ocean Avenue is only 130 feet from 1936 Ocean Avenue. There are altogether 14 educational institutions along the Ocean Avenue corridor, including Commodore Sloat elementary, Aptos Middle School, Stratford School, City College of San Francisco, and San Francisco State University. The Board of Supervisors very recently (12/9/2014 and 12/16/2014) voted unanimously to limit tobacco sales permits "if the Applicant will be within 500 feet of the nearest point of the property line of a School". Although this legislation does not take effect for 30 days and may not legally apply to this case, it seems to me that the Board of Supervisors should apply these same criteria in evaluating the appeals opposing establishment of the tobacco retailer at 1963 Ocean Avenue.

I disagree with the following "Findings" in the Planning Commission Final Motion No. 19271:

"Sections 7.A. (p.4): The proposed new uses and building ... will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community."

"7.B. (p.5): The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity."

*“7.D. (p.6): The proposal enhances the range of comparison goods and services offered by adding another specialty retail store to the District”*

“7.E. (p.6): The concentration of such establishments in the particular zoning district for which they are proposed does not appear to adversely impact the health, safety, and welfare of residents of nearby areas,”

The proposed e-cigarette/vaporizer retailer and steam stone hookah lounge is not desirable and is not compatible with this community. Smoking e-cigarettes and using vaporizers and being exposed to carcinogens in the second hand smoke from e-cigarettes and vaporizers will be detrimental to the health of the persons living in, working in, and attending school in the community. Furthermore, the retail sale of e-cigarettes does not enhance the range of comparison goods and services offered because there are already two tobacco retailers within 400 feet: a 7-Eleven at 2000 Ocean Avenue that sells e-cigarettes and cigarettes and a store on Ashton Avenue that sells cigarettes.

Thank you for your consideration of this matter. I hope you will side with those of us who oppose establishment of a tobacco retailer and hookah lounge, ‘Happy Vape’, at 1963 Ocean Avenue

Regards,

Susanne DeRisi

415 Chenery St

San Francisco, CA 94131

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**From:** Linda Chan-Lau [linda138@yahoo.com]  
**Sent:** Friday, December 19, 2014 1:35 PM  
**To:** BOS Legislation (BOS); Board.of.Spervisor@sfgov.org; Yee, Norman (BOS)  
**Cc:** rckaris@gmail.com  
**Subject:** RE:Proposal Vape and hookah lounge business

**Categories:** 141291

I DO NOT WISH AND ALLOWED THIS TO APPEAR AT MY NEIGHBORHOOD NOR NEAR BY APTOS MIDDLE SCHOOL. I WIL FIGHT TILL THE END TO NOT LET THIS HAPPEN. I AM CONCERN WITH THE SAFETY OF OUR STUDENTS AND THE SURROUNDINGS. IT SHOULD NOT BE ALLOWED SO CLOSED TO DISTANCE OF OUR SCHOOL. WE ALREADY HAVE SO MUCH PROBLEMS IN THE EVENING, WE DO NOT WANT MORE ACTIVITY GOING ON IN OUR NEIGHBORHOOD.

SINCERELY,  
NEIGHBOR AND PARENT APTOS MIDDLE SCHOOL

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**From:** Board of Supervisors (BOS)  
**Sent:** Friday, December 19, 2014 12:54 PM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Writing to strongly object to vape/hookah business at 1963 Ocean Ave

**Categories:** 141291

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**From:** Sarah Wentker [mailto:sarah.wentker@gmail.com]  
**Sent:** Friday, December 19, 2014 11:09 AM  
**To:** Yee, Norman (BOS); BOS Legislation (BOS); Board of Supervisors (BOS)  
**Cc:** rckaris@gmail.com  
**Subject:** Writing to strongly object to vape/hookah business at 1963 Ocean Ave

I am writing to urge you to please block the opening of a vape & hookah business at 1963 Ocean Avenue. I live in this neighborhood, and my daughter attends Aptos Middle School. We DO NOT need this kind of business in our neighborhood. There are tons of children walking up and down the Ocean Ave corridor, all the way from Commodore Sloat Elementary, to Aptos Middle School, and down to Denman Middle School & Balboa High School at the other end of Ocean. Our kids do NOT need to walk past this business, and they do not need to be exposed to this kind of culture. Plenty of kids end up smoking (legal substances and otherwise) at a young age. We do not need further encouragement. The whole vape culture is being portrayed as safe and cool, but it is not proven safe. Please please please keep businesses like this out of our neighborhood, and away from schools!!!!

Thanks for your consideration.

Sarah Wentker  
307 Santa Ana Ave.  
415-623-4375

**From:** Board of Supervisors (BOS)  
**Sent:** Friday, December 19, 2014 12:53 PM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Proposed Vape Hookah Lounge at 1963 Ocean - Opposition

**Categories:** 141291

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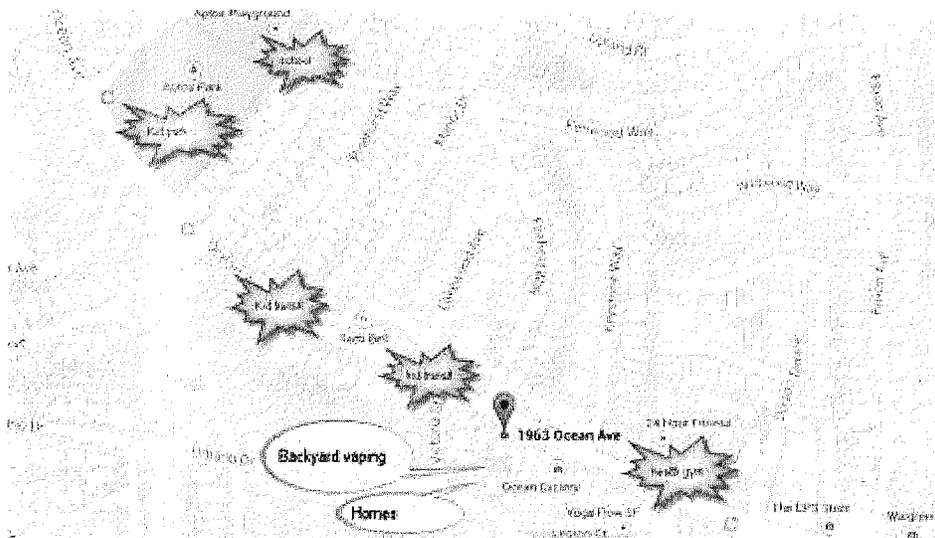
**From:** deltabear [mailto:deltabear88@gmail.com]  
**Sent:** Friday, December 19, 2014 10:47 AM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Cc:** Robert Karis  
**Subject:** Proposed Vape Hookah Lounge at 1963 Ocean - Opposition

I continue to be opposed to this project, and I am shocked that the Planning Commission thinks that it's OK. I am hoping that the Board will be more rationale.

The owner has emailed me, trying to allay our concerns. But I am now even more concerned. Excerpt below:

"Our diversity of products and services will stimulate pedestrian traffic. **The Vaping will be designated to our outdoor backyard area enclosed by a tent....**"

Does the Planning Commission/Board realize that the owner plans to BUILD A TENT in the backyard area for vaping activity?



Planning Commission was incorrect in their finding that this development is " necessary or desirable, and compatible with, the neighborhood or the community."

The Commission issued a ruling that "approval of the Conditional Use authorization would promote the health, safety and welfare of the City." Given proximity to kids, park, school, how is this conclusion possible?

Adrienne Go

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**From:** Board of Supervisors (BOS)  
**Sent:** Friday, December 19, 2014 9:40 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: re Conditional Use Application for 1963 Ocean Ave.

**Categories:** 141291

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**From:** Mary Sherwood [<mailto:mshersf@gmail.com>]  
**Sent:** Thursday, December 18, 2014 2:10 PM  
**To:** BOS Legislation (BOS); Board of Supervisors (BOS); Yee, Norman (BOS)  
**Subject:** re Conditional Use Application for 1963 Ocean Ave.

Hello,

As a long time resident of the Ingleside Terraces I am writing to you to voice my opposition to the opening of a e-cigarette shop at 1963 ocean ave. Many children (including my own) walk down ocean avenue on their way to and from the many schools located along this corridor . Recent research has shown that while there is a decline in the use of tobacco cigarettes among young people, there is an increase in e-cigarette use and that those that try it are more inclined to continue to smoke.

<http://www.cdc.gov/media/releases/2014/p0825-e-cigarettes.html>

[http://www.nytimes.com/2014/12/17/science/national-institute-on-drug-abuse-e-cigarette-study.html?\\_r=0](http://www.nytimes.com/2014/12/17/science/national-institute-on-drug-abuse-e-cigarette-study.html?_r=0)

This addiction as well as the known negative affects of nicotine on developing brains makes me opposed to allowing this e-cigarette establishment in this location. My hopes are that you will please take into consideration the many children that travel this corridor each day and make a decision to provide them with the best possible opportunities to be healthy and successful individuals.

Thank you,

Mary Sherwood  
874 Urbano Drive  
SF

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**From:** Board of Supervisors (BOS)  
**Sent:** Friday, December 19, 2014 9:36 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Does SF Need Any More "Vape shops?"

**Categories:** 141291

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**From:** Serena Chen [mailto:Serena.Chen@lung.org]  
**Sent:** Thursday, December 18, 2014 12:56 PM  
**To:** Board of Supervisors (BOS)  
**Subject:** Does SF Need Any More "Vape shops?"

Board President Tang and Members of the Board,

We received a request from a San Francisco resident today asking us to assist her in stopping a business selling electronic smoking devices and paraphernalia from locating on Ocean Ave. While we are not familiar with the particulars of this specific case, we are concerned in general as to the proliferation of "vape" shops all over the country and in our communities as they encourage use of a product that is completely unregulated. Electronic cigarette use by youth has now surpassed the use of conventional cigarettes by minors as covered in this [New York Times](#) article.

Earlier this year, the American Lung Association spoke in favor of Supervisor Mar's legislation to restrict the use and sale of these devices. In [19N](#), free sampling of tobacco products including electronic cigarettes is clearly prohibited and we hope that the City will affirm this provision since these shops often provide free samples to customers.

In the past year, we are aware of three East Bay cities that moved to stop any additional "vape" shops from locating in their cities by passing urgency moratoriums to give the cities the time to develop zoning laws that would limit where they could be located. In the case of one of the cities -- Union City which had no such shops -- the city council voted to add vapor shops and hookah bars to their list of uses not allowed within city limits. Hayward, which saw the number of "vape" shops triple in a few months, put a halt to any additional ones, and then adopted strong restrictions on where such shops could be located. The third city, Fremont, is in the process of developing a strong tobacco retailer licensing ordinance which would include where such businesses could be located.

Please let us now if you have any questions.

*Serena*

**Serena Chen** | Regional Advocacy Director  
American Lung Association in California  
333 Hegenberger Rd, Suite 450  
Oakland, CA 94621  
Phone: 510.982.3191  
Fax: 510.638.8984  
[Serena.Chen@lung.org](mailto:Serena.Chen@lung.org) | <http://www.lung.org/california>

WE ARE A FORCE TO BE RECKONED WITH  
**JOIN THE FORCE  
FOR LUNG HEALTH**



**LUNG  
FORCE**



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**From:** Board of Supervisors (BOS)  
**Sent:** Thursday, December 18, 2014 9:43 AM  
**To:** BOS-Supervisors; Lamug, Joy; Carroll, John (BOS)  
**Subject:** File 141291 FW: Deny the Appeal of 1963 Ocean ave. Uphold the permit  
**Attachments:** Clerk of the Board of Supervisors.docx

**Categories:** 141291

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**From:** [chris@gonewiththesmoke.com](mailto:chris@gonewiththesmoke.com) [<mailto:chris@gonewiththesmoke.com>]  
**Sent:** Wednesday, December 17, 2014 3:10 PM  
**To:** Board of Supervisors (BOS)  
**Subject:** Deny the Appeal of 1963 Ocean ave. Uphold the permit

Hello,

Please read my letter of support for the permit and denial of the 1963 Appeal

Thank you!  
Christopher Chin

Clerk of the Board of Supervisors: Angela Callvillo

Re: Please deny the appeal for 193 Ocean avenue and uphold the permit

Dear supervisors

I am the owner/operator of Gone with the Smoke shop, and I have been in business for over 1 year.

I would like to share with you the sentiment of many of our patrons who have successfully stopped smoking, started to vape and have had many health benefits from this switch.

A few of these patrons have actually stopped smoking AND vaping all together. This would not have been possible without the advent of vaping technology.

Since there's not a vapor shop on Ocean avenue, smokers in that region are being deprived of the opportunity to quit smoking. Please deny the appeal and uphold the permit. I am available for any questions or comments you may have regarding the vaping industry

Christopher Chin

Gone With The Smoke

569 Geary Street

SF, CA 94102

415-938-7508