



Common Sense Exemption Appeal Timeliness Determination

DATE: September 29, 2020
TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: Lisa Gibson, Environmental Review Officer – (628) 652-7571
RE: Appeal Timeliness Determination –2675 Geary Boulevard
Common Sense Exemption; Planning Department Case No. 2019-004110ENV

On September 18, 2020, M.R. Wolfe & Associates, P.C. on behalf of San Francisco residents Julie Fisher and Tony Vargas, and United Food & Commercial Workers Union (UFCW) Local 5, and its members who live and/or work in San Francisco filed an appeal with the Office of the Clerk of the Board of Supervisors of the common sense exemption determination for the 2675 Geary Boulevard project. As explained below, the appeal is timely.

Date of Exemption Posting	30 Days after Exemption Posting	Appeal Deadline (Must Be Day Clerk of Board’s Office Is Open)	Date of Appeal Filing	Timely?
Friday, September 11, 2020	Sunday, October 11, 2020	Tuesday October 13, 2020	Friday, September 18, 2020	Yes

Approval Action: On May 14, 2020, the Planning Department issued a Categorical Exemption for the proposed project. The Approval Action for the project was the issuance of a Conditional Use Authorization pursuant to Planning Code sections 303, 303.1 and 712 to permit a Formula Retail use (d.b.a. Whole Foods Market) within a NC-3 (Moderate-Scale Neighborhood Commercial) Zoning District. The Planning Commission held a discretionary review hearing and approved the project which occurred on June 25, 2020 (Date of the Approval Action).

Exemption Posting: On September 4, 2020 the Planning Department rescinded the (May 14, 2020) Class 32 Categorical Exemption. On September 11, 2020 the Planning

Department issued and posted the Common Sense Exemption for the project on the Planning Department's website (Date of the Exemption Posting).

Appeal Deadline: Sections 31.16(a) and (e) of the San Francisco Administrative Code state that any person or entity may appeal an exemption determination to the Board of Supervisors during the time period beginning with the date of the exemption determination and ending 30 days after the Date of the Approval Action. Here, the rescinding of the Class 32 Categorical Exemption and the issuance of the Common Sense Exemption did not invalidate the project approvals; thus, no subsequent Approval Action was required. As a result, per San Francisco Administrative Code Section 31.16 (e)(2)(B)(ii), the appeal period begins with the date the exemption determination is posted or noticed and ends 30 days after the first date that the Planning Department posted notice of the exemption on the Planning Department's website. The 30th day after the date of the Exemption Posting is Sunday, October 11, 2020. The next day when the Office of the Clerk of the Board of Supervisors is open is Tuesday, October 13, 2020 (Appeal Deadline).

Appeal Filing and Timeliness: The Appellant filed the appeal of the exemption determination on Friday, September 18, 2020, prior to the appeal deadline. Therefore, the appeal is considered timely.