

From: [Anderson, Katharine \(DPW\)](#)
To: [Wong, Jason \(DPW\)](#)
Subject: FW: File No. 221141/Planning Case No. 2021-011352CUA/4835 Mission Street – Request for Review of Conditional Use Authorization Notice of Appeal
Date: Wednesday, November 30, 2022 8:02:32 AM
Attachments: [2022-11-23 LTR to BOS re 4835 Mission Street – Conditional Use Authorization Appeal.pdf](#)

Katharine S. Anderson, PLS
City and County Surveyor, City and County of San Francisco

Bureau of Street Use & Mapping | San Francisco Public Works | City and County of San Francisco
49 South Van Ness Avenue, 9th Floor | San Francisco, CA 94103 | (628) 271-2132

From: Samuel Ray <sam@collaray.com>
Sent: Wednesday, November 23, 2022 3:35 PM
To: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>; Anderson, Katharine (DPW) <katharine.anderson@sfdpw.org>; Huff, Nicolas (DPW) <nicolas.huff@sfdpw.org>
Cc: Jimenez, Sylvia (CPC) <Sylvia.Jimenez@sfgov.org>; JENSEN, KRISTEN (CAT) <Kristen.Jensen@sfcityatty.org>; PEARSON, ANNE (CAT) <Anne.Pearson@sfcityatty.org>; Ionin, Jonas (CPC) <jonas.ionin@sfgov.org>; Balba, Ryan (CPC) <ryan.balba@sfgov.org>; ChanStaff (BOS) <ChanStaff@sfgov.org>; DorseyStaff (BOS) <DorseyStaff@sfgov.org>; MandelmanStaff, [BOS] <mandelmanstaff@sfgov.org>; Mar, Gordon (BOS) <gordon.mar@sfgov.org>; MelgarStaff (BOS) <MelgarStaff@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Preston, Dean (BOS) <dean.preston@sfgov.org>; Ronen, Hillary <hillary.ronen@sfgov.org>; Safai, Ahsha (BOS) <ahsha.safai@sfgov.org>; Stefani, Catherine (BOS) <catherine.stefani@sfgov.org>; Walton, Shamann (BOS) <shamann.walton@sfgov.org>
Subject: File No. 221141/Planning Case No. 2021-011352CUA/4835 Mission Street – Request for Review of Conditional Use Authorization Notice of Appeal

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Good Afternoon Ms. Cavillo - Clerk of the Board of Supervisors:

I represent Mission Advisory Co., with respect to its conditional use authorization to convert the property located at 4835 Mission Street to retail cannabis use under Planning Case No. 2021-011352CUA, which was recently approved by the San Francisco Planning Commission. As you may know, the Board of Supervisors has received a Notice of Appeal of said Conditional Use Authorization from Olinda Meza Vega, a nearby resident ("Appellant").

The purpose of the attached correspondence is to contest the validity of the Notice of

Appeal on the basis that it does not comply with the requirements of San Francisco Planning Code Section 308.1.

Please let me know if you have any questions. We look forward to your response.

Best,

Sam

--

Samuel Ray
Colla & Ray LLP
1561 Powell Street
San Francisco, CA 94133
o: [\(415\) 579-1414](tel:(415)579-1414)
d: [\(415\) 579-1413](tel:(415)579-1413)
collaray.com

NOTICE: My office hours are 1:00 – 4:30 pm PST Monday – Friday. The best way to contact me is via text or email and I will respond to you at my earliest convenience. If you require immediate attention, please call the office at (415) 579-1414 . Thank you for your cooperation.

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November 23, 2022

Angela Calvillo, Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall – Room 244
San Francisco, CA 94102
angela.calvillo@sfgov.org



Nicholas Huff, PE, Bureau Manager
Katharine Anderson, City & County Surveyor
Department of Public Works
Bureau of Street Use & Mapping
49 South Van Ness Avenue, 3rd Floor
San Francisco, CA 94103
nicholas.huff@sfdpw.org
katharine.anderson@sfdpw.org

Sent Via Email and Hand Delivery.

Re: File No. 221141/Planning Case No. 2021-011352CUA/4835 Mission Street – Conditional Use Authorization Appeal – Request for Verification of Validity of Notice Appeal.

Dear Clerk of the Board of Supervisors:

This law firm represents Mission Advisory Co., the project applicant (the “Applicant”) for conditional use authorization to convert the property located at 4835 Mission Street (the “Property”) to retail cannabis use under Planning Case No. 2021-011352CUA (the “Project”). The Project was unanimously approved by the Planning Commission on September 29, 2022. This Project is a verified equity owned dispensary, which meets all the requirements of San Francisco Police Code Article 16 and fulfils the City and County of San Francisco’s equity goals.

On October 31, 2022, the Clerk of the Board of Supervisors received a Notice of Appeal of the Project and assigned this matter File No. 221141. The relevant portion of the Notice of Appeal is attached hereto as **Exhibit A**. On November 8, 2022, the Department of Public Works (“DPW”) sent the Clerk of the Board a letter verifying the Notice of Appeal (“DPW Verification Letter”). A copy of the DPW Verification Letter is attached hereto as **Exhibit B**. On November 9, 2022, the Clerk of the Board sent a letter to the Appellant accepting the Notice of Appeal (“Clerk of Board Letter”). A copy of the Clerk of the Board Letter is attached hereto as **Exhibit C**.

The purpose of this letter is to contest the validity of the Notice of Appeal on the basis that it does not meet the requirements of San Francisco Planning Code Section 308.1. This Applicant is a small business and an equity-owned dispensary. This Project has met all the requirements imposed by the City and County of San Francisco in order to receive approval from the Planning Commission and Office of Cannabis. In addition, the Applicant has done considerable community outreach, including neighborhood meetings and canvassing. In short, despite the arduous process of opening a dispensary in San Francisco, this Applicant has done this project the correct way by respecting all the processes and procedural hurdles imposed by the City. Therefore, the prospect of having to go before yet another government body, after already receiving unanimous approval from the Planning Commission, is daunting as it interjects uncertainty at the end of

what has already been a long journey. As the Applicant has respected due process throughout this Project, they only requests that they are affordable the same due process in consideration of this Notice of Appeal.

As such, the Applicant requests that the City review the Notice of Appeal to ensure it meets the requirements of Planning Code Section 308.1. Upon review, the City will find that the Notice of Appeal does not meet the signature requirement. As detailed below, Section 308.1 requires that a notice of appeal be subscribed to by “the owners or Verified Tenants of at least 20% of the property affected by the Conditional Use[.]” (Planning Code §308.1(b).) Here, the Notice of Appeal is subscribed to by less than 20% of the verified tenants/owners of the affected properties, as such this Notice of Appeal should not have been accepted.

I. Summary of Section 308.1

On or about September 16, 2022, the Board of Supervisors amended Planning Code Section 308.1 to allow “Verified Tenants”, in addition to property owners, to subscribe to appeals for the purpose of reaching the required 20% threshold of affected properties. (See File No. 220130; Planning Code §308.1.) This amendment became effective on October 17, 2022. For your reference, a true and correct copy of Planning Code Section 308.1 is attached hereto as **Exhibit D**.

Section 308.1 now states, in relevant part, that a notice of appeal shall be subscribed by, *inter alia*, “the owners or Verified Tenants of at least 20% of the property affected by the . . . Conditional Use.” (Planning Code §308.1(b).) For the purpose of appeals of a conditional use authorization, Section 308.1 defines “property affected” as “all property within 300 feet of all exterior boundaries of the property for which Conditional Use has been approved by the Planning Commission, excluding the property for which the approval has been given.” (Planning Code §308.1(b)(2).) Section 308.1 defines a “Verified Tenant” as “a residential or commercial tenant of a property who declares, under penalty of perjury of the laws of the State of California, that the tenant occupies the entire property or at least one separate unit on the property pursuant to a lease with a term exceeding 32 days.” (Planning Code §308.1(b)(5).) Verified Tenants are required to “maintain proof of tenancy,” which can be requested by DPW to verify tenancy. (*Ibid.*)

As some tenants only occupy a portion of an affected property and some owners only own a fraction of a building, Section 308.1 provides instructions for calculating the number of properties affected with signatures subscribing to the petition:

- Section 308.1(b)(4) states that, [i]f a property is held in joint ownership, “the signatures of the joint owners shall be calculated as representing affected property in direct proportion to the amount of total ownership of that property attributed to the joint owner or owners subscribing to the notice of appeal.” Further, if an owner has “exclusive rights to a portion of the property, the proportion of the total ownership attributable to that owner shall be calculated in terms of a ratio of the floor area and land area in which that owner has exclusive, joint, and common rights to the total floor area and land area of that property.”
- Section 308.1(b)(6) states that, “[w]here a property contains more than one rental unit, the signatures of Verified Tenants shall be calculated as representing the percentage of affected property in the same proportion of the number of rental units on the property represented by the Verified Tenants subscribing to the appeal to the total number of rental units in that property.” Further, “if more than one Verified Tenant occupying a single rental unit subscribes to the appeal, that unit will only be given the weight of a single unit in the property.”

- Section 308.1(b)(7) states that, “[i]f an owner of 100% of a tenant-occupied property and one or more Verified Tenants of the same property subscribe to the appeal, the land area of the affected property shall be given the same weight as the land area of an affected property owned by a single owner in determining whether 20% of the property affected is represented by signatures to the appeal.”

Therefore, Section 308.1 requires that the City not only count the number of affected properties represented by signatures, but also properly weigh each of those signatures in accordance with the percentage of the property that each signatory owns or rents.

II. Application of San Francisco Planning Code Section 308.1 to this Notice of Appeal

Here, there are 153 affected properties (properties within 300 feet of exterior boundaries of the Property). As such, in order to reach the 20% threshold of affected properties, either owners or Verified Tenants of 31 affected properties must subscribe to the Notice of Appeal. The Notice of Appeal has 64 signatures, which represent 38 different properties. Out of those 38 properties, one property – 579 London Street (APN: 6273/017B) – is outside the 300-foot radius. Further, in accordance with the method for calculating the 20% threshold of property described above (see Planning Code §308.1(b)(1)-(7)), many of the affected properties are multi-unit buildings and the signatories represent only a fraction of the units within said property. Finally, some of the affected properties are multi-owner properties, and the signatories only represent a percentage of the property’s ownership. As such, in determining if the 20% threshold is met, those signatures must be weighted appropriately.

Here are two examples from this Notice of Appeal of how signatures should be weighted in accordance with Section 308.1:

1. A single tenant of 4828 Mission Street signed the Notice of Appeal. However, 4828 Mission Street is a four-unit building. Per Section 308.1(b)(6), **“[w]here a property contains more than one rental unit, the signatures of Verified Tenants shall be calculated as representing the percentage of affected property in the same proportion of the number of rental units on the property represented by the Verified Tenants subscribing to the appeal to the total number of rental units in that property.”** (Emphasis Added.) As such, this tenant’s signature should only be attributed to 1/4 of the affected property. In other words, for the purposes of determining whether the 20% threshold has been met (31 properties), this signature should be counted as .25, as opposed an entire property.
2. One property owner of 522 Paris Street signed the Notice of Appeal. However, this property actually has two owners on title. Per Section 308.1(b)(4), if a property is held in joint ownership, “the signatures of the joint owners shall be calculated as representing affected property in direct proportion to the amount of total ownership of that property attributed to the joint owner or owners subscribing to the notice of appeal.” As such, this owner’s signature should only be attributed to 1/2 of the affected property. In other words, for the purposes of determining whether the 20% threshold has been met, this signature should be counted as .5, not the entire property.

Accounting for the above considerations, the City will find that less than 20% of the affected properties have subscribed to this Notice of Appeal. Further, many of the signature are from “tenants.” In order to be considered, Section 308.1 specifically requires that the tenants be “Verified Tenants” as defined

by Section 308.1(b)(5). In fact, Section 308.1 empowers DPW to require that tenant signatories provide proof of residency in the form of an executed lease agreement, tax records, DMV records, and/or utility bills. Here, DPW never requested tenant verification. Notably, in the Verification Letter, DPW specifically states that “**[w]e were not able to verify tenant’s signatures**” and stated that the tenants are “**unverified tenants**.” (See Exh. B [emphasis added].) Further, the Letter from the Clerk of the Board specifically states that Notice of Appeal contain signatures from “verified property owners and **unverified tenants**.” (See Exh. C [emphasis added].) However, Section 308.1 specifically requires that the tenants be “**Verified Tenants**” in order to be counted. Therefore, DPW should request proof of residency from the tenant signatories or, in the alternative, not count the signatures of “unverified tenants” towards the 20% threshold.

As previously stated, the approval of this Project has been a long road for the Applicant. In fact, despite being held to the strict letter of the law, the Applicant has surpassed every single legal and procedural hurdle. Therefore, the prospect of having this Project reviewed by another government body after receiving unanimous approval from the Planning Commission is concerning as it could have huge implications on the future of this business. As such, before accepting this Notice of Appeal, the Applicant respectfully requests that the City review this Notice of Appeal to ensure that it is subscribed to by 20% of the affected properties as required by Section 308.1.

Very Truly Yours,

/s/ Samuel Ray

Samuel Ray
Colla & Ray LLP
Attorneys for Mission Advisory Co.

cc: Supervisor/Board President Shamann Walton
Supervisor Ahsha Safai
Supervisor Connie Chan
Supervisor Catherine Stefani
Supervisor Aaron Peskin
Supervisor Gordon Mar
Supervisor Dean Preston
Supervisor Matt Dorsey
Supervisor Myrna Melgar
Supervisor Rafael Mandelman
Supervisor Hillary Ronen
Anne Pearson, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
Jonas Ionin, Planning Commission
Sylvia Jimenez, Planning Department
Ryan Balba, Planning Department

EXHIBIT A

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BOARD OF SUPERVISORS
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2022 OCT 31 PM 3:18

NOTICE TO BOARD OF SUPERVISORS OF APPEAL BY ll
FROM ACTION OF THE CITY PLANNING COMMISSION

Notice is hereby given of an appeal to the Board of Supervisors from the following action of the City Planning Commission.

The property is located at

4835 Mission St SF CA 94112

September 29, 2022

Date of City Planning Commission Action
(Attach a Copy of Planning Commission's Decision)

October 31, 2022

Appeal Filing Date

n/a The Planning Commission disapproved in whole or in part an application for reclassification of property, Case No. n/a.

n/a The Planning Commission disapproved in whole or in part an application for establishment, abolition or modification of a set-back line, Case No. n/a.

The Planning Commission approved in whole or in part an application for conditional use authorization, Case No. 2021-011352-CUA.

n/a The Planning Commission disapproved in whole or in part an application for conditional use authorization, Case No. n/a.

Statement of Appeal:

a) Set forth the part(s) of the decision the appeal is taken from:

Please see attached copy of planning commission decision provided by the SF planning.

b) Set forth the reasons in support of your appeal:

- 1) Violation of Sunshine Ordinance
- 2) Code violation due to proximity of bench areas for Balboa High School.
- 3) Planning commissioner Tanner's suggestion that BOS revisit the 600 ft buffer zone.
- 4) Over saturation of similar businesses in the area. Please see attached letter.

Person to Whom
Notices Shall Be Mailed

Name and Address of Person Filing Appeal:

Olinda Mera Vega
Name

Olinda Mera Vega
Name

P.O. Box 885081 SF CA 94188
Address

566 Landon St SF CA 94112
Address

(415) 312-2401
Telephone Number

(415) 312-2401
Telephone Number



Signature of Appellant or
Authorized Agent

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Appeal signatures
page 1 of 5

2022 OCT 31 PM 3:18

BY ll

Planning Commission Case
No. 2021-011352 MA

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners or "Verified Tenants" of property affected by the proposed amendment or conditional use (that is, owners or "Verified Tenants" of the property within the area that is the subject of the application for amendment or conditional use, or within a radius of 300 feet of the exterior boundaries of the property.

If ownership has changed and assessment roll has not been amended, we attach proof of ownership change. If signing for a firm or corporation, proof of authorization to sign on behalf of the organization is attached.

"Verified Tenants" that sign below, hereby declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct, and that the tenant occupies the entire property or at least one separate unit on the property pursuant to a lease with a term exceeding 32 days.

Street Address, property owned or rent	Assessor's Block & Lot	Owner or Verified Tenant	Printed Name	Original Signature
1. 566 London St	6272/011	Owner	Olinda Meza Vega	
2. 528 London St	6272/004	Owner	Raul Sandoval	
3. 556 London	6272/010	Tenant	Alex Ostrovnik	
4. 532 London	6272/004B	tenant	MARINA GONZALEZ	
5. 555 LONDON	6273/021	OWNER	KATIA HERASMOZ	
6. 570 London	6272/012	owner	Patricia Harman	
7. 538 London	6272/004A	OWNER	ARACELI TONEL	
8. 556 London	6272/010	Tenant	Matt Pipes	
9. 551 London	6273/023	tenant	ALEX GONZALEZ	
10. 553 London	6273/022	owner	Araceli Tonel	
11. 567 London	6273/019	owner	Raymond Kim	
12. 551 London	6273/023	tenant	Judy Sato	
13. 552 LONDON	6272/008	TENANT	Sonja L. Garlick	
14. 528 London	6272/004	Tenant	Jorge Ramos	
15. 4828 Mission #2	6959/032	Tenant	Felicia Madric	
16. 4796 Mission St	#116 ^{6956/016}	Tenant	Alexandro Peral	
17. 4796 Mission St	#206 ^{6956/036}	tenant	JULIO PERON	
18. 535 London	6273/024C	Tenant	Juan Lopez	
19. 543 London	6273/024A	OWNER	CHARON SHEA	
20. 543 LONDON	6273/024A	OWNER	TIM SHEA	

(All information provided is subject to public disclosure; personal information will not be redacted.)

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page 2 of 5

2022 OCT 31 PM 3:18

Planning Commission Case
No. 2021-011352 CUA

BY el
The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners or "Verified Tenants" of property affected by the proposed amendment or conditional use (that is, owners or "Verified Tenants" of the property within the area that is the subject of the application for amendment or conditional use, or within a radius of 300 feet of the exterior boundaries of the property.

If ownership has changed and assessment roll has not been amended, we attach proof of ownership change. If signing for a firm or corporation, proof of authorization to sign on behalf of the organization is attached.

"Verified Tenants" that sign below, hereby declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct, and that the tenant occupies the entire property or at least one separate unit on the property pursuant to a lease with a term exceeding 32 days.

Street Address, property owned or rent	Assessor's Block & Lot	Owner or Verified Tenant	Printed Name	Original Signature
1. Rent 4827 Mission	6272/023	Tenant	Joyce Chan	[Signature] <i>OMW</i>
2. Rent 4788 Mission St	6956/036	tenant	Emetoria C.M.	[Signature]
3. 47 London St	6273/024	tenant	Tommy	[Signature]
4. 4796 Mission #210	6956/036	tenant	ROBERT [Signature]	[Signature]
5. 4790 Mission	6956/036	Tenant	Lisa Hdz	[Signature]
6. 522 London	6272/034	tenant	LISA ENNIS	[Signature]
7. 582 London St	6272/013B	owner	HUAM YING THO	[Signature]
8. 578 LONDON ST	6272/013A	owner	BRIAN GONZALEZ	[Signature]
9. 578 LONDON ST	6272/013A	owner	Syrah Grzybowski	[Signature]
10. 519 London	6273/024G	tenant	YAO SHENG XIE	[Signature]
11. 5396 coast	6273/024B	Tenant	Elmer James	[Signature]
12. 545 London	6273/024	Tenant	BENJAMIN JORDANO	[Signature]
13. 557 LONDON	6273/020	owner	HAO MEI MAK	[Signature]
14. 571 London St	6273/017A	owner	Ma. Patria Desales	[Signature]
15. "	6273/017A	"	Cayetano Desales	[Signature]
16. 554 LONDON ST	6272/009	owner	MI LING JUI	[Signature]
17. 570 London St	6272/028	owner	King [Signature]	[Signature]
18. 150 London St	6272/028	owner	Eliza Ngo	[Signature]
19. 523 London St	6273/024F	owner	Meimei Zhu	[Signature]
20. 523 LONDON ST	6273/024F	owner	KWOK HUNG GEE	[Signature]

(All information provided is subject to public disclosure; personal information will not be redacted.)

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2022 OCT 31 PM 3:18

page 3 of 5

BY *M*

Planning Commission Case
No. 2021-011352 CUA

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners or "Verified Tenants" of property affected by the proposed amendment or conditional use (that is, owners or "Verified Tenants" of the property within the area that is the subject of the application for amendment or conditional use, or within a radius of 300 feet of the exterior boundaries of the property.

If ownership has changed and assessment roll has not been amended, we attach proof of ownership change. If signing for a firm or corporation, proof of authorization to sign on behalf of the organization is attached.

"Verified Tenants" that sign below, hereby declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct, and that the tenant occupies the entire property or at least one separate unit on the property pursuant to a lease with a term exceeding 32 days.

Street Address, property owned or rent	Assessor's Block & Lot	Owner or Verified Tenant	Printed Name	Original Signature
1. 4811 Mission St #401	6272/031	Tenant	Ingrid Cruz	<i>IHC</i>
2. 4811 Mission St #301	6272/031	Tenant	Gabriela Chacon	<i>GC</i>
3. 4813 Mission St #401	6272/047	Owner	Fozia Sarwar	<i>Fozia Sarwar</i>
4. 4813 Mission St #301	6272/047	Owner	YUKIKO PETNIL	<i>Y.P.</i>
5. 4813 Mission St #201	6272/047	tenant	Francisco Lara	<i>F.L.</i>
6. 4833 Mission St.	6272/021	Tenant	Eli Odisho	<i>E.O.</i>
7. 4843 Mission St	6272/019	Tenant	Ramon Serrano	<i>R.S.</i>
8. 4871 Mission St	6272/015	tenant	Luis Marquez	<i>L.M.</i>
9. 4830 Mission St #403	6272/033	tenant	Carlos Peron	<i>C.P.</i>
10. 4825 Mission	6272/033	owner	DALIA ORTEGA	<i>D.O.</i>
11. 4825 Mission	6272/033	OWNER	WALTER FRANCO	<i>W.F.</i>
12. 510 Paris St	6273/001A	Helen ^{tenant}	HELEN CHEN	<i>H.C.</i>
13. 522 Paris St	6273/001B	Owner	Simon Woo	<i>S.W.</i>
14. 579 London St	6273/0178	owner	ADAM ADLUNG	<i>A.A.</i>
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(All information provided is subject to public disclosure; personal information will not be redacted.)

2022 OCT 31 PM 3:18

Planning Commission Case
No. 2021-01135-2 CWA

The undersigned ~~declares that they are~~ hereby subscribers to this Notice of Appeal and are owners or "Verified Tenants" of property affected by the proposed amendment or conditional use (that is, owners or "Verified Tenants" of the property within the area that is the subject of the application for amendment or conditional use, or within a radius of 300 feet of the exterior boundaries of the property.

If ownership has changed and assessment roll has not been amended, we attach proof of ownership change. If signing for a firm or corporation, proof of authorization to sign on behalf of the organization is attached.

"Verified Tenants" that sign below, hereby declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct, and that the tenant occupies the entire property or at least one separate unit on the property pursuant to a lease with a term exceeding 32 days.

Street Address, property owned or rent	Assessor's Block & Lot	Owner or Verified Tenant	Printed Name	Original Signature
1. 522 LONDON	6272/034	OWNER	CHRIS ENNIS	<i>Chris Ennis</i>
2. 579 LONDON	6273/017B	OWNER	CHARMIAN ABANG	<i>Charmian Abang</i>
3. 823 London	6273/024F	TENANT	Susan Huang	<i>Susan Huang</i>
4. 4855 Mission #4	6272/039	OWNER	JUDITH LAIR	<i>Judith Lair</i>
5. 4855 Mission #5	6272/039	OWNER	EDWARD TAPIA	<i>Edward Tapia</i>
6. 4830 Mission #3	6959/033	Tenant.	Meifang Wu.	<i>Meifang Wu</i>
7. 554 LONDON ST	6272/009	OWNER	WAI SUN JOE	<i>Wai Sun Joe</i>
8. 15 RUSSELL	6084/019	Tenant	Ashwin Melin	<i>Ashwin Melin</i>
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(All information provided is subject to public disclosure; personal information will not be redacted.)

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page 5 of 5

2022 OCT 31 PM 3:18

No. 2021-011352 Planning Commission Case
CUA

The undersigned BY declare that they are hereby subscribers to this Notice of Appeal and are owners or "Verified Tenants" of property affected by the proposed amendment or conditional use (that is, owners or "Verified Tenants" of the property within the area that is the subject of the application for amendment or conditional use, or within a radius of 300 feet of the exterior boundaries of the property.

If ownership has changed and assessment roll has not been amended, we attach proof of ownership change. If signing for a firm or corporation, proof of authorization to sign on behalf of the organization is attached.

"Verified Tenants" that sign below, hereby declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct, and that the tenant occupies the entire property or at least one separate unit on the property pursuant to a lease with a term exceeding 32 days.

Street Address, property owned or rent	Assessor's Block & Lot	Owner or Verified Tenant	Printed Name	Original Signature
1. 4867 MISSION ST SF CA 94112	6272/015A	OWNER	ALFREDO DELA ROSA	Alfredo E. delafosa
2. 523 London ST	6273/024F	OWNER	YUN YU ZHANG	Yun Yu Zhang
3. 554 London ST	6272/009	TENANT	Billy Joe	Billy J
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(All information provided is subject to public disclosure; personal information will not be redacted.)

EXHIBIT B



Nicolas Huff, PE, Bureau Manager | Bureau of Street-Use & Mapping

nicolas.huff@sfdpw.org | T. 628.271.2000 | 49 South Van Ness Ave. 3rd Floor, San Francisco, CA 94103

November 8, 2022

Ms. Angela Calvillo
Clerk of the Board
1 Dr. Carlton B. Goodlett Place
City Hall – Room 244
San Francisco, CA 94102

RE: Planning Case No. 2021-011352CUA
4835 Mission Street – Conditional Use Authorization Appeal
APN 6272 LOT 021

Dear Ms. Calvillo:

This letter is in response to your November 2, 2022, request for the Office of the City and County Surveyor to review for verification of signatures with respect to the above referenced appeal. We were able to verify the owners through the Assessor Recorder's property records. We were not able to verify tenant's signatures. They did, however, declare under penalty of perjury that they occupy the property.

Please be advised that per our calculations the appellants' signatures (verified owners and unverified tenants), they represent 27.18% of the area, which is greater than 20% of the area involved and therefore may be enough for an appeal.

Sincerely,

A handwritten signature in blue ink that reads "K. Anderson".

Katharine Anderson
City & County Surveyor

EXHIBIT C

BOARD of SUPERVISORS



**City Hall
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227**

November 9, 2022

Olinda Vega
566 London Street
San Francisco, CA 94112

**Subject: File No. 221141 - Appeal of Conditional Use Authorization
4835 Mission Street Project**

Dear Ms. Vega:

The appeal filing period for the Conditional Use approval for the proposed project at 4835 Mission Street closed on October 31, 2022.

The City and County Surveyor has informed the Board of Supervisors in a letter received November 8, 2022 (copy attached), that the signatures represented with your appeal filing on October 31, 2022, have been checked pursuant to the Planning Code, and represent more than 20% of the verified property owners and unverified tenants required, and are sufficient for an appeal.

Pursuant to Planning Code, Section 308.1, a hearing date has been scheduled for **Tuesday, December 13, 2022, at 3:00 p.m.**, at the Board of Supervisors meeting.

Please provide to the Clerk's Office by noon:

20 days prior to the hearing:
Wednesday, November 23, 2022

names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and

11 days prior to the hearing:
Friday, December 2, 2022

any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests electronic files be sent to bos.legislation@sfgov.org.



If you have any questions, please feel free to contact Legislative Clerks, Lisa Lew, at (415) 554-7718, Jocelyn Wong, at (415) 554-7702, or Arthur Khoo, at (415) 554-4447.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Angela Calvillo".

Angela Calvillo
Clerk of the Board

jw:ak:ll:ams

- c: Anne Pearson, Deputy City Attorney
- Kristen Jensen, Deputy City Attorney
- Katharine Anderson, Public Works
- William Blackwell, Public Works
- Bernie Tse, Public Works
- Nicolas Huff, Public Works
- Jason Wong, Public Works
- Ian Schneider, Public Works
- Lisa Gibson, Planning Department
- Devyani Jain, Planning Department
- Joy Navarrete, Planning Department
- Corey Teague, Planning Department
- Tina Tam, Planning Department
- AnMarie Rodgers, Planning Department
- Dan Sider, Planning Department
- Aaron Starr, Planning Department
- Elizabeth Watty, Planning Department
- Jonas Ionin, Planning Commission
- Ryan Balba, Planning Department
- Julie Rosenberg, Board of Appeals
- Alec Longaway, Board of Appeals

EXHIBIT D

SEC. 308.1. APPEALS: AMENDMENTS TO THE PLANNING CODE AND CONDITIONAL USES.

(a) **Right of Appeal.** The action of the Planning Commission, in disapproving in whole or in part an amendment to the Planning Code initiated by application as described in Section 302 and Sections 306 through 306.5, or in approving or disapproving in whole or in part an application for Conditional Use authorization as described in Sections 303 and 304 and Sections 306 through 306.5, shall be transmitted to the Office of the Clerk of the Board in final and signed form within 20 business days of Commission's action to approve or disapprove in whole or part the application, and subject to appeal to the Board of Supervisors in accordance with this Section 308.1. An action of the Commission so appealed from shall not become effective unless and until approved by the Board of Supervisors in accordance with this Section 308.1.

(b) **Notice of Appeal.** Any appeal under this Section 308.1 shall be taken by filing written notice of appeal with the Board of Supervisors no earlier than ten business days after the date of action by the Planning Commission, and no later than within 30 days after the date of action by the Planning Commission. The appeal shall be filed with the Office of the Clerk of the Board in a manner prescribed by the Clerk of the Board and in accordance with the Planning Fee Schedule. The notice of appeal shall be subscribed by either (i) the owners or Verified Tenants of at least 20% of the property affected by the proposed amendment or Conditional Use or (ii) five members of the Board of Supervisors. The signature on the appeal of members of the Board shall not be deemed to be any indication of their position on the merits of the appeal but rather shall indicate only that they believe there is sufficient public interest and concern in the matter to warrant a hearing by the Board of Supervisors. Upon receipt of a notice of appeal, the Office of the Clerk of the Board shall transmit the notice of appeal and subscribed signatures to Public Works within five business days for its determination of the 20% threshold of the property referenced above. For the purposes of this Section 308.1, the property affected, and the determination of the 20% threshold, shall be calculated by Public Works within five business days from when the Office of the Clerk of the Board requests a determination on the 20% threshold of the property referenced, as follows:

(1) When a proposed amendment or Conditional Use has been disapproved by the Planning Commission, the property affected shall be deemed to be all property within the area that is the subject of the application for amendment or Conditional Use, and within 300 feet of all exterior boundaries of the property that is the subject of the application;

(2) When a proposed Conditional Use has been approved by the Planning Commission, the property affected shall be deemed to be all property within 300 feet of all exterior boundaries of the property for which the Conditional Use has been approved by the Planning Commission, excluding the property for which the approval has been given;

(3) In either of the above cases, when any property is owned by the City and County of San Francisco, the United States Government or the State of California, or any department or agency thereof, or by any special district, and is located within 300 feet of the area that is the subject of the application for amendment or Conditional Use, such property shall be excluded in determining the property affected unless such owner shall itself be a subscriber of the notice of appeal; and

(4) Wherever a property is held in joint ownership, the signatures of joint owners shall be calculated as representing affected property in direct proportion to the amount of the total ownership of that property attributable to the joint owner or owners subscribing to the notice of appeal. For the purposes of this calculation, the term "joint ownership" shall include joint tenancies, interests in common, community property, partnerships, stock cooperatives, condominiums, community apartments and planned unit developments. Where each owner has exclusive rights to a portion of the property, the proportion of the total ownership attributable to that owner shall be calculated in terms of a ratio of the floor area and land area in which that owner has exclusive, joint, and common rights to the total floor area and land area of that property. Under these calculations, the land area of an affected property in joint ownership shall be given the same weight as the land area of an affected property not in joint ownership, in determining whether 20% of the property affected is represented by signatures to the notice of appeal.

(5) For purposes of this Section 308.1, a “Verified Tenant” is a residential or commercial tenant of a property who declares, under penalty of perjury of the laws of the State of California, that the tenant occupies the entire property or at least one separate unit on the property pursuant to a lease with a term exceeding 32 days. Each Verified Tenant who signs an appeal pursuant to this Section 308.1 must maintain proof of tenancy including either an executed lease reflecting a term of more than 32 days, or at least one of the following forms of records reflecting that the tenant has occupied the property for more than 32 consecutive days as of the date of signature: (a) state or federal income tax records, (b) department of motor vehicle records including license, registration or California identification, or (c) utility bills. A Verified Tenant who signs an appeal pursuant to this Section may be required by Public Works to provide such proof of tenancy. A “Verified Tenant” shall not include occupants of property who rent the property for less than 32 consecutive days, or for Tourist or Transient Use, or as a Short-Term Residential Rental, as those terms are defined in Section 41A.4 of the Administrative Code, but shall include tenants of all Unauthorized Units in the property.

(6) Where a property contains more than one rental unit, the signatures of Verified Tenants shall be calculated as representing the percentage of affected property in the same proportion of the number of rental units on the property represented by the Verified Tenants subscribing to the appeal to the total number of rental units in that property. Only one Verified Tenant for each residential or commercial rental unit shall be counted for each such unit; if more than one Verified Tenant occupying a single rental unit subscribes to the appeal, that unit will only be given the weight of a single unit in the property. Under these calculations, an affected property rented by multiple Verified Tenants shall be given the same weight as an affected property owned by a single owner or occupied by a single tenant, in determining whether 20% of the property affected is represented by signatures to the notice of appeal.

(7) If an owner of 100% of a tenant-occupied property and one or more Verified Tenants of the same property subscribe to the appeal, the land area of the affected property shall be given the same weight as the land area of an affected property owned by a single owner in determining whether 20% of the property affected is represented by signatures to the appeal. If a joint owner of land held in joint ownership property and one or more Verified Tenants of the same property subscribe to the appeal, the total land area of the affected property shall be calculated by adding the land areas calculated pursuant to subsections (3) through (6), above, and may total, but not exceed 100% of the land area of the property in determining whether 20% of the property affected is represented by signatures to the appeal.

(c) **Hearing.** Upon the filing of such written notice of appeal so subscribed, the Board of Supervisors or the Clerk thereof shall set a time and place for hearing such appeal, which shall¹ may be not less than 21 nor more than 45 days after such filing. If there is not a Board meeting scheduled during that time, the Clerk may schedule the hearing at the next regularly scheduled Board meeting more than 50 days after the filing. The hearing may be held no more than 60 days from the date of filing, unless the parties consent to a later date as provided in subsection (f) below.

(d) **Decision.** The Board of Supervisors shall hear and decide the appeal within 90 days of the filing of the written notice of appeal, unless the parties consent to a later date as provided in subsection (f) below. The Board’s decision on the appeal is final upon adjournment of the meeting at which the hearing was held and at which the Board votes to approve or deny such appeal. Failure of the Board of Supervisors to act within such time limit shall be deemed to constitute approval by the Board of the action of the Planning Commission.

(e) **Findings.** The Board of Supervisors shall adopt findings supporting its decision to uphold or deny an appeal under this Section 308.1 within 60 days after making its decision on the appeal. Notwithstanding the foregoing sentence, failure of the Board to approve findings within the time specified will not affect the finality of the Board’s decision on the appeal.

(f) **Continuances.** Any continuance of the time periods specified in this section 308.1 shall require a written request from the party or parties seeking continuance in such form as may be provided by the Clerk of the Board for the Board of Supervisors’ consideration.

(g) **Votes Required.** In acting upon an appeal of a Planning Commission determination on a request for reclassification by an interested party, the Board of Supervisors may disapprove the action of the Planning Commission only by a vote of not less than 2/3 of all members of the Board. In acting upon any other appeal of a

Planning Commission determination on a Planning Code amendment, the Board of Supervisors may disapprove the action of the Planning Commission by a majority vote of the Board. In both cases, in the event that one or more of the full membership of the Board is disqualified or excused from voting because of an interest prohibited by general law or the San Francisco Charter, any such disapproval shall be by a vote of all members of the Board that are not disqualified or excused; provided, however, that in the event that a quorum of all members of the Board is disqualified or excused from voting because of an interest prohibited by general law or the Charter, the action of the Planning Commission shall be deemed approved. In the event the Board disapproves the action of the Commission when the Commission has disapproved in whole or in part a proposed amendment, the Board shall, not later than its next regularly scheduled meeting, adopt the proposed ordinance. In the event the Board disapproves the action of the Commission when the Commission has disapproved in whole or in part a proposed conditional use, the Board shall prescribe in its motion such conditions as are in its opinion necessary to secure the objectives of this Code, in accordance with Section 303(d).

(Amended by Ord. 443-78, App. 10/6/78; Ord. 69-87, App. 3/13/87; Ord. 321-96, App. 8/8/96; Ord. 121-01, File No. 010271, App. 6/1/2001; Ord. 277-03, File No. 031497, App. 12/12/2003; Ord. [129-17](#), File No. 170203, App. 6/30/2017, Eff. 7/30/2017; Ord. [202-18](#), File No. 180557, App. 8/10/2018, Eff. 9/10/2018; Ord. [191-22](#), File No. 220130, App. 9/16/2022, Eff. 10/17/2022)

AMENDMENT HISTORY

Divisions (a) and (b)-(b)(4) amended; Ord. [129-17](#), Eff. 7/30/2017. Division (a) amended; Ord. [202-18](#), Eff. 9/10/2018. Divisions (a), (b), (b)(4) amended; divisions (b)(5)-(7), (e), and (f) added; division (c) amended as divisions (c) and (d); former division (d) redesignated as division (g); Ord. [191-22](#), Eff. 10/17/2022.

CODIFICATION NOTE

1. So in Ord. [191-22](#).

Editor's Note:

See also: Interpretations related to this Section.