

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO

**NOTICE TO BOARD OF SUPERVISORS OF APPEAL - 8 PM 2: 04**  
**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 1963 Ocean Avenue.

November 6, 2014  
Date of City Planning Commission Action  
(Attach a Copy of Planning Commission's Decision)

December 8, 2014  
Appeal Filing Date

The Planning Commission disapproved in whole or in part an application for reclassification of property, Case No. \_\_\_\_\_.

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

The Planning Commission approved in whole or in part an application for conditional use authorization, Case No. 2014.0206C.

The Planning Commission disapproved in whole or in part an application for conditional use authorization, Case No. \_\_\_\_\_.

Statement of Appeal:

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

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.

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.

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

Nicotine containing e-cigarettes are addictive and the fumes from e-cigarettes and hookah are unhealthy. It is undesirable to have a business whose goal is to attempt to increase usage of these products and which will expose our children and students in our area to them. The use of e-cigarettes for smoking cessation is unapproved and they are not recommended by existing clinics for this purpose.

The 1900 block of Ocean Avenue needs many other businesses that will better serve the neighbors.

Person to Whom  
Notices Shall Be Mailed

Name and Address of Person Filing Appeal:

\_\_\_\_\_  
Name

Robert Karis, M.D.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

727 Victoria Street  
San Francisco, CA 94127

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

415-239-2938

\_\_\_\_\_  
Telephone Number

*rcKaris2@gmail.com*

*Robert Karis M.D.*

\_\_\_\_\_  
Signature of Appellant or  
Authorized Agent

A detailed brief will be submitted.

*RK*



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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## 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.

Jonaş 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://sfdpwr.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)*

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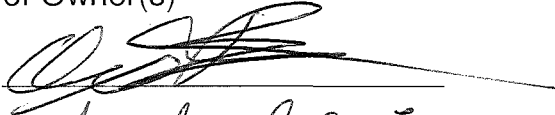
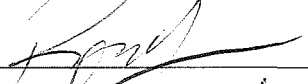

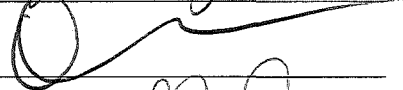

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

City Planning Commission  
Case No. 2014.0206C

2014 DEC -8 PM 2:04

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of 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.

	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	<u>70 Ur Bruno Drive</u>	<u>6915/013</u>	<u>Alex Button</u>	
2.	<u>70 Urbano Drive</u>	<u>6915/013</u>	<u>Angela Infusino</u>	<u>Angela Infusino</u>
3.	<u>26 Urbano Drive</u>	<u>6915/009</u>	<u>Fred W. Stuckey</u>	<u>Fred W. Stuckey</u>
4.	<u>1970 <del>Urban</del> Ocean Ave.</u>	<u>3280/018</u>	<u>Richard Gazowsky</u>	
5.	<u>827 Victoria St</u>	<u>6914/002</u>	<u>SUSAN Kim</u>	<u>Susan Kim</u>
6.	<u>827 Victoria St</u>	<u>6914/002</u>	<u>James S Kim</u>	
7.	<u>19 Keystone Way</u>	<u>3281/018</u>	<u>Victor Hays</u>	<u>Victor Hays</u>
8.	<u>27 URBANO DR</u>	<u>6922/002</u>	<u>Denek Schulze</u>	
9.	<u>27 Urbano Dr</u>	<u>6922/002</u>	<u>Michelle Schulze</u>	
10.	<u>22 Star Hedley</u>	<u>3281/023</u>	<u>Alex Francine Corral</u>	<u>Alex Corral</u>
11.	_____	_____	_____	_____
12.	_____	_____	_____	_____

City Planning Commission  
Case No. 2014.0206C

2014 DEC -8 PM 2:04

*JD*

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of 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.

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Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1. <u>776 VICTORIA ST.</u>	<u>6922/021</u>	<u>GEOFFREY D. PALMER</u>	<u><i>Geoffrey D. Palmer</i></u>
2. <u>830 Victoria ST.</u>	<u>6915/016</u>	<u>Ida De Leon</u>	<u><i>Ida De Leon</i></u>
3. <u>788 VICTORIA ST.</u>	<u>6922/022</u>	<u>MYCATRACE YOUNG</u>	<u><i>Mycatrace Young</i></u>
4. <u>788 Victoria</u>	<u>6922/022</u>	<u>Christina Young</u>	<u><i>Christina Young</i></u>
5. <u>96 UNBARO DR</u>	<u>6915/014</u>	<u>JOHN FLAHERTY</u>	<u><i>John Flaherty</i></u>
6. <u>815 Victoria St.</u>	<u>6914/003</u>	<u>Zach Pumphrey</u>	<u><i>Z. Pumphrey</i></u>
7. <u>2001 OCEAN</u>	<u>6914/001</u>	<u>Willie J. Ballard</u>	<u><i>W. Ballard</i></u> - duplicate signature/RK
8. <u><sup>Urban 18</sup> 14 Fairfield way RK</u>	<u>6915/008</u>	<u>Alda Angst</u> <del>Morena RK</del>	<u><i>Alda Angst</i></u>
9. <u>14 Fairfield way</u>	<u>3281/021</u>	<u>Morena Fernandez</u>	<u><i>Morena Fernandez</i></u>
10. <u>15 Knapstone Way</u>	<u>3281/018A</u>	<u>PAT MURATI</u>	<u><i>Pat Murati</i></u>
11. _____	_____	_____	_____
12. _____	_____	_____	_____

*A.2/7*

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BOARD OF SUPERVISORS  
SAN FRANCISCO

City Planning Commission 2014 DEC -8 PM 2:05  
Case No. 2014.0206C

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of 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.

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Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1. <u>2001 OCEAN AVE</u>	<u>B-6914/001</u>	<u>Willie S. Ballard</u>	<u>Willie S. Ballard</u>
2. <u>2001 OCEAN AVE</u>	<u>B-6914/001</u>	<u>Willie S. Ballard</u>	<u>Willie S. Ballard</u>
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BOARD OF SUPERVISORS  
SAN FRANCISCO

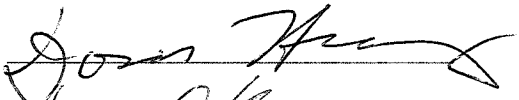
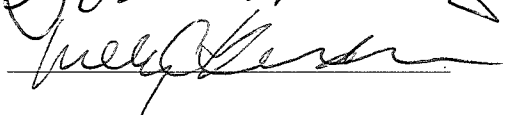
City Planning Commission 2014 DEC -8 PM 2:05

Case No. 2014.0206C

*Jo*

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of 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.

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Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1. <u>785 VICTORIA ST</u>	<u>6921.003</u>	<u>DORIS HUEY</u>	
2. <u>11 Keystan</u>	<u>3281/019</u>	<u>Nelly Hudman</u>	
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P. 4/7

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SAN FRANCISCO

2014 DEC -8 PM 2:05

City Planning Commission  
Case No. 2014.0206C

BY Jo

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of 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.

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	Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1.	<u>38 Legion</u>	<u>6915/035</u>	<u>DORIS TAM</u>	<u>Doris Tam</u>
2.	<u>40 Urbano</u>	<u>6915/010</u>	<u>Tian-Yi Cui</u>	<u>Tian-Yi Cui</u>
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A.5  
17

1963 Ocean Ave case

City Planning Commission  
Case No. 2014.0206C Appeal

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of 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.

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Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1. <u>65 Urbano Drive</u>	<u>6922/001</u>	<u>Francis &amp; Patricia Hechinger</u>	<u>Francis Hechinger</u>
2. <u>65 Urbano Drive</u>	<u>6922/001</u>	<u>Patricia Hechinger</u>	<u>Patricia Hechinger</u>
3. <u>90 Urbano Drive</u>	<u>6915/014</u>	<u>Maria Flaherty</u>	<u>Maria Flaherty</u>
4. <u>600 Urbano Dr</u>	<u>6915/012</u>	<u>Jennifer L. Wood</u>	<u>Jennifer L. Wood</u>
5. <u>30 Legion Ct.</u>	<u>6915/037</u>	<u>Qiao Mei Ling</u>	<u>Qiao Mei Ling</u>
6. <u>30 Legion Ct.</u>	<u>6915/037</u>	<u>Ren Yi Cai</u>	<u>Ren Yi Cai</u>
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BOARD OF SUPERVISORS  
 SAN FRANCISCO  
 2014 DEC -8 PM 2:05

P.6 / 7



City Planning Commission

Case No. 20140206C

Proposed Vape Shop - 1963 Ocean Ave.

The undersigned declare that they are hereby subscribers to this Notice of Appeal and are owners of property affected by the proposed amendment or conditional use (that is, owners of 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).

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Street Address, property owned	Assessor's Block & Lot	Printed Name of Owner(s)	Original Signature of Owner(s)
1. <u>50 LIBANO</u>	<u>6915/611</u>	<u>Marida's Terrace</u>	<u>x [Signature]</u>
2. _____	_____	<u>Lee Family</u>	<u>x [Signature]</u>
3. _____	_____	<u>TRUST</u>	_____
4. _____	_____	<u>Mira Lee</u>	_____
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p.7  
/

DEATH VALLEY

**ROBERT KARIS  
CAROLYN KARIS**

6992

(415) 239-8540  
727 VICTORIA STREET  
SAN FRANCISCO, CA 94127

11-35/1210  
252

DATE 12/8/14

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FOR 2014. 0206C appeal

Robert Karis

MP

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