BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
THE EMPIRE GROUP,
Appellant(s)

vs.

SAN FRANCISCO PUBLIC WORKS,
BUREAU OF STREET USE & MAPPING,
Respondent

Appeal No. **19-110**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on September 20, 2019, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on September 6, 2019 to San Francisco's Hometown Creamery, of a Mobile Food Facility Permit (sale of ice cream and waffle cones) at 301 Pine Street.

APPLICATION NO. 18MFF-0113

FOR HEARING ON November 20, 2019

Address of Appellant(s):	Address of Other Parties:
The Empire Group, Appellant(s) c/o Brett Gladstone, Attorney for Appellant(s) Hanson Bridgett LLP 425 Market Street San Francisco, CA 94105	San Francisco's Hometown Creamery, Determination Holder(s) c/o Adar Halil, Agent for Determination Holder(s) 1290 9th Avenue San Francisco, CA 94122

Date Filed:

BOARD OF APPEALS

SEP 20 2019

APPEAL # 19-110

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT OF APPEAL

I / We, **The Empire Group**, hereby appeal the following departmental action: **ISSUANCE** of **Mobile Food Facility Permit No. 18MMF-0113** by the **San Francisco Public Works, Bureau of Street Use & Mapping** which was issued or became effective on: **September 6, 2019**, to: **San Francisco's Hometown Creamery,** for the property located at: **301 Pine Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: **October 31, 2019**, **(no later than three Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with eleven (11) copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day. In addition, an electronic copy should be emailed to: boardofappeals@sfgov.org if possible. AB

Respondent's and Other Parties' Briefs are due on or before: **November 14, 2019**, **(no later than one Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with eleven (11) copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day. In addition, an electronic copy should be emailed to: boardofappeals@sfgov.org if possible.

Only photographs and drawings may be submitted by the parties at the hearing.

Hearing Date: **Wednesday, November 20, 2019, 5:00 p.m., City Hall, Room 416,** One Dr. Carlton B. Goodlett Place.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit eleven (11) copies of all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection at the Board's office. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

If you have any questions please call the Board of Appeals at 415-575-6880

The reasons for this appeal are as follows:

See attachment to the Preliminary Statement of Appeal.

Appellant or Agent (Circle One):

Signature: Ashley Bechtel

Print Name: Ashley Bechtel

BRETT GLADSTONE
PARTNER
DIRECT DIAL (415) 995-5065
E-MAIL BGladstone@hansonbridgett.com

HansonBridgett

BOARD OF APPEALS
SEP 20 2019
APPEAL # 19-110

September 20, 2019

VIA HAND DELIVERY

Board of Appeals
City and County of San Francisco
1650 Mission Street, Suite 304
San Francisco, CA 94103

Re: Appeal of Mobile Food Facility 18MFF-0113 Permit Issuance
Public Works Order No. 2017703

Dear Board of Appeals:

On behalf of my client The Empire Group and 301 Pine Associates, owners of the building at 301 Pine Street in San Francisco, I write this letter to appeal the approval of mobile food facility permit 18MFF-0113, which we understand was issued on September 6, 2019. A copy of the approval order is enclosed with this appeal, as is a $300 appeal fee check payable to the Board of Appeals.

The Empire Group submitted comments to the Department of Public Works on April 16, 2019, objecting to the mobile food facility operating in front of the 301 Pine Street building and strongly disagrees with the decision to approve this permit. Locating a mobile food facility in the proposed location is improper for a variety of reasons. We look forward to discussing this issue in more detail at the appropriate time.

Very truly yours,

Brett Gladstone, Esq.

cc: The Empire Group
301 Pine Associates

City and County of San Francisco
San Francisco Public Works · Bureau of Street Use and Mapping
1155 Market Street, 3rd Floor · San Francisco, CA 94103
sfpublicworks.org · tel 415-554-5810 · fax 415-554-6161

18MFF-0113 — *Mobile Food Facility Permit*

Address : 301 PINE ST **Cost: $1,074.00** **Block:0268 Lot: 001 Zip: 94104**

This permit is non-transferable without approval from DPW and shall comply with DPW, DPH and SFFD regulations and this permit is subject to revocation.

Permittee

Name: San Francisco's Hometown Creamery
Address: 1290 9th Ave San Francisco, CA 94122
Contact: Adar Halil **Phone:** 831-402-7802

Conditions	
Facility Type	Truck
No. of Locations (See Exhibit A)	1
Start Date	09/06/2019
End Date	07/15/2020
To Be Sold	Ice cream & Waffle cones
Certificate of Sanitation	413
SFFD Permit	N/A
SF Business Certificate	1013839

The undersigned Permittee hereby agrees to comply with all requirements and conditions noted on this permit

Approved Date : 09/06/2019

Applicant/Permitee Date

Printed : 9/6/2019 5:02:37 PM Plan Checker Nicholas Persky

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REVOCABLE PERMIT IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. The permittee shall comply with all guidelines and conditions set forth in Article 5.8 of the Public Works Code and Department of Public Works Order No. 182,101 (Guidelines for Issuance of Permit, Inspection of Mobile Food Facilities Operating within Public right-of-way).

2. The permittee shall pay an annual fee, to the Department of Public Works, 1155 Market Street, 3rd Floor, San Francisco, CA 94103, Attention: Street-Use Permits.

3. This permission shall not become effective until the permittee shall have delivered to the Department current approvals from DPH, SFFD and business license.

4. The facility shall be confined to the area identified on the plans submitted and approved by the Department Public Works.

5. The permittee shall not place or store any food trays or carts, dirty dishes, trays or carts for linen and utensils and cooking equipment on any portion of the sidewalk or roadway area of public street with the exception of refuse collection receptacles.

6. The permittee shall maintain the quiet, safety and cleanliness of the facility and location.

7. The permittee shall provide adequate storage and disposal of garbage. Noise and odors shall be contained within immediate area of the facility to not be a nuisance to the neighborhood.

8. The permittee shall prominently post and display notice urging patrons to leave the premises and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways.

9. The permittee shall pick up and dispose of any containers and trash left by patrons within 100' radius area around the Mobile Food Facility.

10. The permittee shall comply with all rules and regulations of Department of Public Health (California & Health Safety Code 110005 and Business and Tax Regulations Codes), San Francisco Fire Department (Section 113 of the San Francisco Fire Code).

11. The permission granted herein is a revocable license. The Director of Public Works may only revoke said permission subject to applicable law.

12. The permit shall not be assignable except with prior written consent of the City and County of San Francisco.

13. The Board of Supervisors reserves the right to exact a rental fee for the use of the sidewalk area, in the event that such a policy is adopted.

14. The permittee and any permitted successor or assign recognize and understand that this permit may create a possessory interest.

15. No person shall produce or allow to be produced by any machine or device, music or entertainment or any combination of same, on commercial or industrial property over which the person has ownership or control, a noise level more than eight dBA above the local ambient at any point outside of the property plane. With respect to noise generated from a licensed Place of Entertainment, in addition to the above dBA criteria a secondary low frequency dBC criteria shall apply to the definition above. No noise or music associated with a licensed Place of Entertainment shall exceed the low frequency ambient noise level defined in Section 2901(f) of the Police Code by more than 8 dBC.

16. No person shall produce or allow to be produced by any machine or device, or any combination of same, on public property, a noise level more than ten dBA above the local ambient at a distance of twenty-five feet or more, unless the machine or device is being operated to serve or maintain the property or as otherwise provided under the Noise Ordinance in the Police Code.

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Exceptions

18MFF-0113

Street Name	From St	To St	Message	Job	Contact	Dates
PINE ST						
	SANSOME ST	CENTURY PL -	Major Muni Route-- Clear street by 3 PM in Commercial Districts, by 4 PM in non-Commercial Districts.			
	SANSOME ST	CENTURY PL -	MFF Allowed			
	SANSOME ST	CENTURY PL -	Parking Meters Installed			
	SANSOME ST	CENTURY PL -	Banners are allowed on this street			
	SANSOME ST	CENTURY PL -	DPT Blue Book Traffic Restriction. Time of day during which lanes must be kept clear: NORTH 7AM - 7PM MONDAY THROUGH FRIDAY // SOUTH 7AM - 7PM MONDAY THROUGH FRIDAY			
	SANSOME ST	CENTURY PL -	Please refer to Figure 12 of Section 9.4(A) of the DPW Order No. 171,442 for special conditions for excavation in the vicinity of AWSS.			
	SANSOME ST	CENTURY PL -	Downtown Streetscape Zone. Please See DPW Order 172596 for standard sidewalk and restoration requirements.		BSM Front Desk 554-5810 - (415) 554-5810	
	SANSOME ST	CENTURY PL -	Conflict with existing Street Use Permit.	17wrm-0009	Refer to Agent - Refer to Agent	
	SANSOME ST	CENTURY PL -	Conflict with existing Street Use Permit.	19MFF-00034	Refer to Agent - Refer to Agent	Jul 16 2019-Jul 15 2020

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Exhibit A : Location Schedule and Food Items

Location and Food	Day Of Week	Start time	End time
301 PINE ST	Monday	11AM	3PM
On the south side of Pine Street, approximately 35 feet west of the SW corner of the Pine St and Sansome St intersection -- Ice cream & Waffle cones			
301 PINE ST	Wednesday	11AM	3PM
On the south side of Pine Street, approximately 35 feet west of the SW corner of the Pine St and Sansome St intersection -- Ice cream & Waffle cones			
301 PINE ST	Friday	11AM	3PM
On the south side of Pine Street, approximately 35 feet west of the SW corner of the Pine St and Sansome St intersection -- Ice cream & Waffle cones			

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BRIEF(S) SUBMITTED BY APPELLANT(S)

HD 11/20/19

FILE

BRETT GLADSTONE
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HansonBridgett

October 31, 2019

VIA HAND DELIVERY

BOARD OF APPEALS
OCT 31 2019
APPEAL # 19-110

San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103

Re: *Appeal No:* 19-110
Appeal Title: The Empire Group vs. SFPW-BSM
Hearing Date: November 20, 2019
Subject Property: 301 Pine Street
Permit No: 18MFF-0113

Dear Board of Appeals:

On September 20, 2019, The Empire Group and 301 Pine Associates ("Appellants"), owners of San Francisco's historic Pacific Exchange Building at 301 Pine Street, filed Appeal No. 19-110 challenging the City's approval and issuance of Mobile Food Facility (MFF) permit No. 18MFF-0113 (the "Application"). The permit applicant ("Applicant") proposed to locate a MFF at 301 Pine Street, operating from 11am to 3pm on Mondays, Wednesdays, and Fridays. This appeal follows an objection the Appellants raised regarding the proposed 301 Pine Street MFF location in public comments submitted to the Department of Public Works ("DPW") prior to the July 3, 2019 permit application hearing.

For the reasons mentioned below, DPW erred in issuing the MFF Permit 18MFF-0113 on September 6, 2019 because the Application does not comply with various San Francisco MFF requirements, including but not limited to (1) San Francisco Public Works Code Article 5.8; (2) DPW Order No. 182,101; (3) the Department of Public Health ("DPH") MFF requirements;

and (4) San Francisco Fire Department MFF requirements. The Application should have been denied as a result of failing to comply with any one of these requirements.

More specifically, the Appellants respectfully ask the Board of Appeals to reverse this permit issuance based on the following:

A. The proposed MFF location is within a 75-foot radius of the Earthbar Restaurant entrance.

Earthbar (the "Restaurant") meets the requirements for being a "restaurant" under San Francisco Public Health Code Section 451 and is located at 301 Pine Street, which is the same address as the proposed MFF. DPW should have denied the Application because the proposed MFF location is less than 75 feet from the Restaurant "as measured from the centerline of the primary entrance to the restaurant." (Ex. 1, DPW Order 182,101, section III(E)(9)). The 75 foot radius is illustrated by several exhibits, including Exhibits 2 through 5.

First, a picture of Pine Street displays where the proposed MFF would be as compared to the curbside in front of the Restaurant (Ex. 2). As shown, the MFF is within a 75 foot radius of the relevant curbside, as measured from the centerline of the primary entrance to the restaurant (which entrance is described more fully below). Further, the proposed MFF diagram the Applicant submitted and that DPW accepted as true (Ex. 3) shows a series of measurements along the southern curb of Pine Street. The diagram indicates that the MFF is 15 feet from one bike rack and 50 feet from a second bike rack. This second bike rack represents the centerline of the primary entrance to the Restaurant (Ex. 4). What this means is that the Applicant's own application, when compared to a picture of the actual location, illustrates that the MFF location would be no more than 50 feet (and well under 75 feet) from the centerline of the primary entrance to the Restaurant. More precisely, a measurement on Pine Street indicates that the end of the proposed MFF parking location is just over 36 feet from the curbside in front of the

Restaurant's primary entrance (Ex. 5). These facts indicate a clear violation of the 75 foot radius rule.

DPW Order 182,101 states that a MFF is not allowed to operate within 50 feet of the active street facing façade of 301 Pine Street. Here, the active street facing façade is the entire northern side of the 301 Pine Street building that faces Pine Street, a distance of approximately 86 feet (Ex. 6). Because the MFF will be operating within 50 feet of the active street facing façade, DPW Order 182,101 is violated as a result. This is yet another reason why the Board should reverse the permit issuance.

The Restaurant's menu includes a variety of items, including açaí bowls, smoothies, and other food prepared on the premises for serving or consumption on or off the premises; and for sale to the public (Earthbar menu, Ex. 7). The Restaurant has weekday hours from 6am – 8:30pm. The Restaurant's interior space begins with a seating area immediately to the right after walking in the 301 Pine Street front door, and then the space continues in a perpendicular direction from there until one reaches an ordering counter with full time employees (Ex. 8 and Ex. 9). Although the Restaurant is in the same building as the Equinox sports club, there is no membership or identification card requirement to visit or purchase food at the Restaurant, meaning there is direct access to the Restaurant from Pine Street.

In fact, the Restaurant is designed to appeal both to Equinox members and the general public. Indeed, anyone can walk off the street into 301 Pine Street and directly enter the Restaurant. Signage on the outside of the 301 Pine Street building promotes the Restaurant separately from the health club. Also, the external signage specifically states that the Restaurant is "OPEN TO THE PUBLIC." (Ex. 10). In addition, Earthbar has an online social media and advertising presence on social media platforms and websites such as Yelp (Ex. 11). The Restaurant is also near the top result from a Google search of "301 Pine Street restaurant." (Ex. 12). Earthbar search results also include a map of 301 Pine Street and a picture of the

building. It is surprising that the City did not do that very basic Google search, as it would have revealed the proximity of the Restaurant.

For all of the above reasons, the Applicant had ample and reasonable notice that the Restaurant operates at this location but still decided to pursue this Application. In short, the Board of Appeals should reverse the permit issuance due to this clear violation of the 75-foot radius rule as it pertains to the Restaurant.

B. The Applicant did not follow all Department of Public Health requirements for a San Francisco MFF.

A critical element of the San Francisco MFF permit process is submitting the appropriate forms to the Department of Public Health ("DPH") and obtaining an active Certificate of Sanitation. An important step in that process is filing a restroom verification form with the Department of Public Health, indicating that a worker restroom is located within 200 feet of the MFF and that the MFF has the right to send its workers there pursuant to a real arrangement with a business.

In May 2018, the Applicant submitted a restroom verification form as part of another MFF permit application, 19MFF-00067, for the Applicant's 281 Geary Street location, noting that a public toilet is located 125 feet from that location. (Ex. 13). As a result, it is clear that the Applicant was very aware of the need for filing a restroom verification form since he complied with this requirement prior to that other permit's approval and issuance.

After we made a public records request seeking the filed verification form and found none, we are convinced that neither DPW nor DPH have a restroom verification form on record. (Ex. 14). The Appellants can only speculate that the Applicant did not submit this form because there was not an option to comply at the proposed MFF location. Our client, the 301 Pine Street owners, have not and will not grant permission to the Applicant for use of a restroom in the 301 Pine Street building, and no employee within the building is authorized to provide that

permission. To the extent such a permission has been provided without the Appellants' knowledge and consent, that permission is hereby revoked.

Without filing the restroom verification form and without any known restroom for employees to use, the Applicant has not complied with the City's MFF public health and sanitation requirements. The Appellants reiterate their request that the Board reverse this permit issuance.

C. The Applicant will not be able to reasonably manage a MFF in this location in accordance with the good neighbor policies outlined in the Public Works Code.

The steps outside the 301 Pine Street building, a historic landmark, are uniquely spacious in this area of San Francisco (Ex. 15) and are frequently used as a congregation area for Earthbar patrons, Equinox members, and others in the general public during work breaks. It is also a resting place with a number of outdoor stairs for those who walk through the Financial District and stop for lunch. As a result, there is a considerable amount of trash already left behind.

DPW Order 182,101 Section VIII states the following Good Neighbor policies for MFF Applicants: a) the quiet, safety, and cleanliness of the Mobile Food Facility Location and its adjacent area shall be maintained; proper and adequate storage and disposal of debris and garbage shall be provided. (Ex. 1). The Appellants contend that the Applicant cannot comply with these requirements.

First, having a MFF in this location would invariably lead to a significant increase in trash near the proposed MFF location. It is true that the good neighbor policy suggests the Applicant clean up after closing. But that is only a policy and thus hard to enforce over such an expansive area. Trash is likely to be left on the 301 Pine Street stairs since people frequently sit up the stairs and at a considerable distance from the proposed MFF location. Second, the trash can at the corner of Pine Street and Sansome Street is already inadequate for the trash put in it. A

MFF at the proposed location, generating the type and amount of trash expected from a MFF serving dessert products will only add to that excessive trash volume. Third, the uncleanliness the MFF will cause during its operating hours will be an unfortunate and avoidable annoyance to Earthbar patrons, Equinox members, and the general public.

It is often said that history does not repeat itself, but it often rhymes. The Appellants sense such a rhyme in this case. Within the last couple of years, a Philz Coffee MFF ("Philz") around the corner at the Sansome Street and Pine Street intersection illustrates a valuable point in this appeal that the Board will hopefully find instructive. Philz had a popular MFF at that location using permit 16MFF-0030 and generated an extreme amount of foot traffic and trash. Philz also caused access problems and expensive cleanup issues for adjacent buildings. DPW eventually revoked the Philz MFF permit location (Ex. 16). The Appellants believe that this revocation was due in large part to the negative side effects from a MFF at that corner, particularly since the revocation letter specifically referenced the Good Neighbor policies. Here, the Appellants proactively raise this issue to avoid similar trash related and access issues. The Appellants also seek to avoid the inevitable increased cleanup expenses 301 Pine Street will face. For these reasons, the Appellants ask the Board to reverse the permit issuance.

D. The proposed MFF location is not compliant with San Francisco Fire Department requirements.

The San Francisco Fire Department requires MFF locations to be at least 7 feet from any fire hydrants. (Ex. 1, Section III(C)(4)). The diagram the Applicant submitted inaccurately indicates that this distance is 8 feet, 8 inches. (Ex. 3). More accurately, this fire hydrant is 6 feet, 7 inches from the proposed MFF parking spot in front of 301 Pine Street. (Ex. 17). If this more accurate measurement had been presented by Applicant to the City, the San Francisco Fire Department and DPW would presumably have enforced this objective standard and denied the permit application. The Appellants ask the Board of Appeals to do the same.

E. There are many bricks and mortar eating establishments serving similar products in the near vicinity of the proposed MFF location.

The Pine Street corridor between Sansome Street and Montgomery Street has several bricks and mortar restaurants serving refreshment products during the same times on the same days. In addition to the Earthbar Restaurant detailed above, other nearby bricks and mortar eating establishments have offerings similar to the Applicant. For example, Credo serves dessert, Juice Box serves chilled refreshment drinks, The Plant serves chilled refreshments such as smoothies, and The City Club serves a variety of dessert options. Increased competition in this area could put bricks and mortar restaurants at risk, as exhibited by the recent closure of Diller's Delicatessen, a long standing restaurant across the street from the Restaurant at 348 Pine Street and where a popular MFF is located daily. (Ex. 18 and Ex. 19).

The impact on bricks and mortar establishments was noted in the July 3, 2019 public hearing decision. The Appellants contend that particularly when combined with the other issues raised in this brief, the impact on other local businesses remains an important factor the Board should consider in this appeal.

Conclusion

In summary, there are many reasons why the Board should reverse DPW's decision to issue permit MFF18-0113. Three of the reasons to reverse are based on violation of purely objective standards: (1) the proposed MFF location is clearly within the prohibited 75-foot radius of the Earthbar restaurant curbside and the 50 foot radius from the Restaurant's active street facing façade; (2) the Applicant did not file the required sanitation related forms with DPH for the 301 Pine Street location, specifically the restroom verification form; and (3) the proposed MFF parking spot is less than seven feet from a fire hydrant. When these objective criteria are combined with the significantly increased trash and cleaning expenses that will be thrust upon the Appellants as well as threats to nearby bricks and mortar food establishments serving

similar refreshment products, the reasons to reverse DPW's issuance of MFF18-0113 are even clearer. The Appellants have no quarrel with the Applicant individually and wish them good fortune at their other locations around San Francisco. For the reasons outlined above, however, the Appellants respectfully ask the Board to reject 301 Pine Street as a valid MFF location and reverse the issuance of permit MFF18-0113.

Very truly yours,

Brett Gladstone

cc: Adar Halil, Agent for Permit Applicant
San Francisco Public Works, Bureau of Street Use & Mapping c/o Bernard Tse
Joe Duffy, Department of Building Inspection

EXHIBIT 1

City and County of San Francisco

San Francisco Department of Public Works
Office of the Deputy Director & City Engineer, Fuad Sweiss
Bureau of Street-Use & Mapping
1155 Market Street, 3rd Floor
San Francisco Ca 94103
(415) 554-5810 ■ www.sfdpw.org

Edwin M. Lee, Mayor
Mohammed Nuru, Director

Jerry Sanguinetti, Bureau Manager

DPW Order No: 182101

ADOPTING GUIDELINES FOR THE ISSUANCE OF PERMITS, AND FOR INSPECTION AND ENFORCEMENT OF MOBILE FOOD FACILITIES OPERATING WITHIN PUBLIC RIGHTS-OF-WAY, EFFECTIVE JULY 28, 2013.

I. PURPOSE. Ordinance No. 119-13, approved July 28, 2013, amending Article 5.8 of the Public Works Code (PWC) , to address various location and notification requirements and approving additional requirements concerning mobile food facilities (MFF) operating within the public right-of-way. This Department of Public Works (DPW) Order provides detailed implementation guidelines and supersedes DPW Order 179,044, approved February 25, 2011.

II. DEFINITION OF A MOBILE FOOD FACILITY

A. Mobile Caterer: Any motorized vehicle from where wrapped food, foodstuffs, products, liquids, materials intended, or any other food or drink for human consumption are sold, served, distributed, or offered for sale at retail or provided at no cost to the public.
B. Mobile Food Facility (MFF): Any vehicle or pushcart used in conjunction with a commissary or other permanent food facility from where food is sold or distributed at retail value. A MFF does not include a "Transporter" used to transport packaged food from a food facility or other approved source to the consumer. A MFF also does not include any use that sells goods, wares, or merchandise other than food or drink intended for human consumption.
C. Push Cart: Any wagon, cart, or any other food-servicing device, whether stationary or mobile, from where any food or foodstuffs are sold, served, distributed, offered for sale at retail, or provided at no cost to the public, whether consumed at said pushcart or elsewhere.
D. Cold Truck: Any vehicle with a previously approved route number by the San Francisco Police Department (SFPD).

III. ALLOWABLE LOCATIONS AND HOURS OF OPERATION It shall be unlawful for any person, firm or corporation to operate a Mobile Caterer, Mobile Food Facility, Push Cart or Cold Truck within the public right-of-way, in the City and County of San Francisco,

without first having obtained a permit from the Director of Public Works, accompanied by approval by the Director of Public Health and the Fire Marshal's Office.

A. The Permittee shall provide a minimum clear path of travel for pedestrians of no less than six (6) feet wide and an ADA compliant four (4) foot wide line for their customers.
    1. For any motorized vehicles, the minimum recommended sidewalk width shall be ten (10) feet.
    2. For pushcarts, the minimum recommended sidewalk width of a sidewalk shall be fifteen (15); and,
    3. A minimum two (2) foot clearance is required along the curbside for pushcarts operating adjacent to existing on-street parallel parking.
    4. The Permittee is prohibited from placing any freestanding A-frames, displays, signs, or any other obstruction within the public right-of-way, with the exception of a refuse collection receptacle.
B. The Permittee shall comply with the current Fire Code and guidelines including providing and maintaining minimum distances required for building access, exit egress, and access to SFFD protection services.
C. The Permittee shall not obstruct the use of any existing City facilities or previously permitted occupancy. All MFFs must maintain a minimum clearance of:
    1. Eight (8) feet from an Arts Commission approved Street Artist License (Maps are available online at http://www.sfartscommission.org/street_artists_program/maps/index.html)
    2. Five (5) feet from the angular return of any sidewalk, nor obstruct the use of any corner or mid-block accessible curb ramps
    3. Six (6) feet from existing street furniture including but not limited to parking meters, fire hydrants, pay phones, pedestrian signal crossings, fire alarms, news racks, kiosks, benches, bike racks, etc.
    4. Seven (7) feet from Fire Hydrants
    5. Twelve (12) feet from any delineated Bus Zone, or within a Blue Zone.
D. All applicable parking regulations shall be observed.
    1. The MFF shall comply with all existing color curb zones, as approved by SFMTA.
    2. The MFF shall occupy no more than the equivalent of two on street (2) parking spaces.
    3. The MFF shall provide service along curbside and not park against vehicular traffic.
    4. The MFF may not occupy the sidewalk adjacent to any on street perpendicular or diagonal parking. Food services may be provided within the sidewalk area, adjacent to the pedestrian through way zone.
E. No MFF or MFF Vendor shall peddle food or drinks in certain zoned areas throughout the City:
    1. In any residential ("R") district other than a residential-commercial combined ("RC") district as defined in the Planning Code;
    2. In any "P" districts, as defined in Section 234 of the Planning Code, that are located on Twin Peaks or in any areas in or adjacent to Open Space Districts located on Twin Peaks;

3. On the sidewalk or street immediately adjacent to property under the jurisdiction of the Recreation and Park, Commission other than the areas specified above, unless written consent is obtained from the General Manager of the Recreation and Park Department.
4. On the sidewalk or street under the jurisdiction of Caltrans e.g. Van Ness Avenue, 19th Avenue, etc. unless written consent from State of California District 04 is first obtained.
5. No occupancy is allowed within SFMTA's AT&T Park restricted streets from two (2) hours before until two (2) hours after events, unless written consent from SFMTA is first obtained.
6. On the north side of Jefferson Street between Jones and Taylor Streets.
7. Within 500 feet of the property lines of any public middle schools or junior high schools between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday.
8. Within 1,000 feet of the property line of any public high school between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. This clearance may be within 750 feet for the following public schools: John O'Connell, Mission High School, Hilltop High School, Galileo High School, International Studies Academy, Principal's Center, Civic Center High School.
9. Within a 75-foot radius of any restaurant as measured from the centerline of the primary entrance to the restaurant. The restaurant shall be operational at the time the MFF applies for a permit for the subject location.
    a. A restaurant is defined under Public Health Code Section 451 and includes: fast food and take-out establishments.
    b. If the restaurant provides any food product and marketing uses as defined in Public Health Code Section 440, then it shall not fall under the definition of a restaurant, as it applies to this Code and guidelines.
    c. The 75-foot radius requirement shall apply only if the restaurant has direct street access to it primary entrance.
10. If the active street-facing façade of a restaurant extends beyond 75 feet from its primary entrance, no Mobile Caterer or MFF shall operate along the curb directly fronting any active street-facing façade. A Mobile Caterer or MFF may not be parked within fifty (50) feet of the active street facing façade
11. Notwithstanding the location requirements, if a Pushcart Peddler has a valid permit for a specific location dated July 19, 1995 or earlier, said pushcart is exempt from this Section's location requirements and the Director may issue an exception as long as the permitted path of travel satisfies minimum applicable Federal and State accessibility requirements.

F. Hours of Operation. Subject to the notification requirements described in this Order, hours of operation shall be limited to 6 A.M. to 3 A.M., the following day. No MFF or MFF Vendor shall peddle between the hours of 3:00 A.M. and 6:00 A.M., unless the Director has approved such sales after consulting with the Planning Department and the Chief of Police.

G. MFFs shall be limited to providing service and sales at one location for no more than three (3) days per week. Such days shall be measured in 24-hour cycles so that they may begin on one day and extend to the following day so long as the subject cycle does not constitute more than 24 consecutive hours at a single location.

IV. PERMIT APPLICATION REQUIREMENTS DPW shall process all completed permit applications strictly in the order in which they are submitted to DPW. A completed permit application shall include all required materials specified in this Order and in PWC Article 5.8.

A. Maximum Number of Permits for a Single Permittee. In no case shall a single Permittee obtain more than seven (7) separate MFF permits; except if a Pushcart Peddler Permittee has 7 or more valid permits dated prior to July 19, 1995, then the previously issued permits shall not count towards this new maximum threshold of 7 permits per Permittee. DPW shall issue a separate permit for each MFF; provided, however, that the DPW Director may issue a written waiver to this requirement if multiple vendors share a MFF. If such a waiver is granted, the DPW Director may impose additional conditions and additional fees pursuant to Public Works Code Section 2.1.3.

1. Single Permit for a Location with Multiple MFFs. The Director may issue a single permit or permits to an assigned location(s) for multiple MFFs. The fees for such permit shall be the same as filing, notification, and inspection fees for a single location. Under such circumstances, the Director of Public Works (Director) may also charge additional permit fees as set forth in Section 2.1.3 of the PWC for any additional time and material costs that the City incurs in processing such permits. All MFFs operating under a single location permit shall comply with all other provisions of this Article and Order.
2. Multiple MFF Permits for a Single Location during the Same Time Period. The Director, at his or her discretion, may issue two (2) or more MFF permits for a single location during the same time period; provided, however, that in no case shall an additional permit be issued unless the Director determines that the location site conditions can accommodate the associated activity without adversely impacting pedestrian path of travel and/or flow or other location requirements. Applicants applying for a MFF permit where an existing MFF permit is currently occupying the public right-of-way must note on their application the size of the unit, its location, owner, menu, and operational hours. The mailing list for notification shall also include the existing MFF owner as part of the notification process.

B. Application. Requests to operate a MFF within the public right-of-way shall include the following on a form provided by DPW:

1. The name, business and residence address of the applicant, and the address where the mobile catering vehicle will be stored during non-operating hours. The address to which notice, when required, is to be sent or mailed, and the name and address of a person authorized to accept service or process, if not otherwise stated on this application.
2. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and residence addresses of each of the officers, directors and each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant shall apply. A natural person shall not acquire a stock interest in more than one

corporate Permittee. The application shall specify whether the applicant intends to operate a MFF under a fictitious name.

3. A photograph of the permit applicant, e.g., passport photo, driver's license, or similar.
4. A description of the food products and/or drink(s) the applicant intends to sell; although no Permittee shall be bound by or limited to this description.
5. The specific location(s) of the activity, including a detailed description of where the applicant intends to place his or her MFF. Locations for the purposes of this permit shall be defined as a fixed point or a defined route including approximate duration at specific fixed points and approximate time of day at specific fixed points along the route.
6. The proposed hours and days of operation for each location that the MFF proposes to serve.
7. A description of the Mobile Catering Vehicle, including the following data: The make, model and type of body; the number of cylinders; the vehicle identification number or any other identifying number as may be required by the Director. *(If this information is not known at the time of permit application, this requirement may be satisfied as a condition of obtaining a final and effective permit).*
8. Information pertinent to the operation of the proposed activity, including information as to management and authority control, as may be required by the Director, Director of Public Health, or Fire Marshal.
9. A statement from the applicant whether the application is for a new permit, renewal of an existing permit, a change to the location that the MFF serves, a change in hours of operation, or the addition of location(s).

C. Notice of Intent

1. Following the filing of an application for a new MFF permit, change of location for an existing permit, change in hours of operation to include service after 8 P.M., or addition of a location(s), DPW shall mail a Notice of Intent to operate the proposed MFF business at the location(s) identified in the application. The form for said Notice shall be provided to each applicant by DPW. Said Notice shall include the location(s) the MFF intends to serve, the days of the week and times for service at each location, a description of the goods/products to be sold under the permit, the procedure for obtaining any additional information, and the procedure for filing any protest or opposition to the proposed permit. The applicant shall also provide DPW with a list of all required recipients of the mailed Notice and stamped envelopes with the addresses of all such individuals for the purpose of providing mailed notice. Notice shall be provided as follows:
    a. If the MFF proposes to operate between the hours of 6 A.M. and 8 P.M., mailed notice shall be sent to all ground floor commercial tenants and any neighborhood organization on the Planning Department list, developed pursuant to the Planning Code
    b. If the MFF proposes to operate at any location between the hours of 8 P.M. and 3 A.M., the following day, the mailed Notice shall also be provided to all property owners, residential tenants, ground floor

commercial tenants, and any neighborhood organization on the Planning Department list, developed pursuant to the Planning Code

c. For each physical building address, the Notice also shall be mailed to the attention of "Building Owner/Manager" at that address, and to the address of record for the property owner, if different.

d. If the MFF is a Mobile Caterer

i. Notice shall be given to all buildings within a 75-foot radius from the outer perimeter of the proposed location(s) to be served. A Mobile Caterer shall be assumed to occupy 20 linear feet of curbside space. The 75-foot radius shall be measured from the outer boundaries of this assumed curbside area. Notice also shall be provided to all properties across the street that directly front, in whole or in part, the Noticed Area. Notice also shall be posted on a City-owned utility pole or other City facility closest to the proposed Mobile Caterer's proposed Location for at least 10 calendar days prior to the end date to either file an objection with DPW, or to request a Departmental hearing. The applicant shall photograph the posted notice, including a date stamp, and submit such photograph to DPW. This photograph shall satisfy the posting requirement under this Article and Order.

ii. If the MFF is a Pushcart, Notice shall be given within a 300 foot radius of the boundaries of the street address(s) fronting the proposed location of the Pushcart. If there is no street address, the Notice shall be given within a 300 foot radius of the boundaries of the Assessor's Block(s) and Lot(s) fronting the proposed location of the Pushcart.

D. Notice of Hearing. Any person or persons who feel(s) that their interests or property or that of the general public will be adversely affected by the issuance, denial, or conditioning of the MFF Permit at its intended location may protest the proposed issuance or denial of said permit or permit conditions by writing to the Director within thirty (30) calendar days from the date listed on the Notice of Intent. Upon receipt of any such written protest during the term of the appeal period, the Director will schedule a public hearing to hear testimony from all persons interested in the tentative permit decision.

1. Not less than ten (10) days prior to the date of a Departmental hearing, the Director shall cause to be published a notice of such hearing in the official newspaper of the City and County of San Francisco. The cost of publishing said notice and any additional mailed notice shall be borne by the MFF Permit applicant. The Notice shall contain the following information: the name and business address of the applicant, the product or products to be sold, the location(s) of the proposed sales activity(ies), the days and hours of operation, and whether the application is for a new permit, for a change of an existing permit, or for an addition of a new location(s).

E. Decisions.

1. At the hearing, the Director, or his/her designee, acting as an Administrative Hearing Officer, may consider the following
    a. Whether the applicant's proposed location is within a 75-foot radius of a restaurant or if the location is currently being operated by an already approved/existing MFF.
    b. Whether three (3) or more MFFs are currently permitted for overlapping times on either side of the street within the same block.
    c. Other information deemed relevant to the determination of whether the proposed location would generate any public safety or other concern that may impact the general public and/or the public rights-of-way.
    d. Whether the sidewalk width at the proposed location is less than ten (10) or fifteen (15) feet wide depending upon the food facility (Mobile Caterer or Pushcart).
    e. Whether substantiated evidence exists to refute assertions in the application for the MFF.
2. If an Administrative Hearing Officer conducts the hearing, such officer shall make a recommendation concerning the proposed permit to the Director, who, in his /her discretion, may disapprove, approve, or conditionally approve the proposed permit.

F. Issuance.
    1. The Director may issue a MFF permit within fourteen (14) days if no hearing is requested pursuant to this Article, if he or she finds:
        a. That the operation, as proposed by the applicant, would comply with all applicable laws, including but not limited to, the provisions of this Article, Order and/or the San Francisco Municipal Code.
        b. That the applicant has not made any false, misleading or fraudulent statements of facts in the permit application or any other document required by the Director or the Director of Public Health, in conjunction with their application and/or request.
    2. The Director may issue a MFF permit within 14 days following a Departmental hearing as provided herein, based on his/her investigation and the investigation of the Director of Public Health, if he /she makes the findings specified above
    3. Any MFF Permit that the Director issues shall be conditioned on the MFF Vendor obtaining a Certificate of Sanitation for the Department of Public Health and approval from the Fire Marshal. If the Certificate of Sanitation and Fire Marshal approval are not obtained within three (3) months of the date the Director issues his /her permit decision, the permit shall be automatically revoked.
G. Appeals. The Director's decision is appealable to the Board of Appeals within fifteen (15) calendar days of the date of DPW's final decision.
H. Renewals. Permits are renewed annually so long as the MFF remains in compliance with all applicable Codes and regulations, including but not limited to payment of all fees due to the City. Renewal of the permit will not require a public notice, unless the Permittee is changing the location that the MFF serves, adding a new location(s), requesting to extend their hours of operation to serve a location later than 8 P.M., or making other changes to the MFF that the Director determines requires public notice.

I. Transfers. No permit shall be transferable except with the written consent of the Director, with the approval of the Director of Public Health. Such consent and approval shall not be unreasonably withheld. The appiication for such transfer shall contain the same information as specified within this Order for an initial application for such a permit, and shall be accompanied by the same filing and inspection fees as for an initial application. Any MFF Permit issued on or before July 1, 2013, shall comply with all applicable provisions of this Article; provided, however, that no notice is required for a transfer. Upon approval of said transfer, the transferee shall retain the original permit approval date and all of the transferor's rights.

J. Expirations.
   1. A permit shall be set to expire seven (7) years from the anniversary of the original permit issuance date as long as the Permittee remains in compliance to this Article and Order, with all aspects of their operation. If the Permittee elects to pursue a new permit, six (6) months prior to such expiration, the existing Permittee may apply for a new permit under the same terms as the existing permit and shall be given priority over all other applicants.
   2. If a Permittee for a MFF has a valid permit for a specific location approved on or before July 1, 2013, then said Permittee is exempt from the above expiration clause, provided that the Permittee complies with all other applicable terms of this Article and Order. As part of any permit issuance, renewal, or transfer pursuant to this Article, DPW shall include reference to the original approval date of the MFF permit.

V. SINGLE DAY PERMITS. A MFF that otherwise meets all of the location requirements, has a San Francisco Business Registration Certificate, an active Certificate of Sanitation from the Department of Public Health and all necessary approvals from the Fire Marshal, shall be eligible to obtain single day Temporary Occupancy Permits for a location under Section 724 of the PWC, provided that:

A. The Permittee shall not vend, exchange cash or complete a credit transaction for food in the public right-of-way.
B. The Permittee shall obtain written authorization from the fronting property owner or property manager.
C. The Permittee shall submit a Certificate of Insurance for general liability coverage of not less than $1 million, endorsing the *City and County of San Francisco* as additional insured with the Bureau's address as the certificate holder.
D. Tow-Away and no-stopping signs are not issued by DPW, MTA does not acknowledge the tow-away/no stopping construction zone signs for single day permits from a Mobile Food Facility. The applicant shall contact MTA for the purchase and placement of special event/tow-away signs after acquiring a single day permit from DPW.

VI. FEES shall be charged based on the following criteria:

A. Submittal Fees
   1. Every person desiring a MFF Permit pursuant to this Article shall file an application with the Director upon a form provided by DPW, as described in Paragraph IV of this Order, accompanied by a filing fee, a notification fee, and an inspection fee for a single MFF location.

2. Each additional location shall require additional payment to DPW.
3. Half of the required fees for a single location and half of the fees for any additional location(s) may be paid at the time of submittal of the application, with the balance fee paid at the time of the Director's decision on the permit.
4. Every Permittee desiring to change the location of an already approved MFF, modify the hours of operation to allow service after 8 P.M., or add a new location(s) during the term of the annual permit, shall file an application with DPW, shall pay an additional filing fee for each alternate location or new location(s), a notification fee per location, and an inspection fee per location. Such requests shall be processed in the same manner as a new application request.
5. No refunds shall be considered or provided if DPW disapproves a permit or a permit location.
6. Separate fees shall be paid to the Department of Public Health (DPH) and the San Francisco Fire Department (SFFD) for plan check and annual inspections/approvals, as required, in order to obtain a valid permit. For the convenience of the applicant, DPW may collect these fees and will forward them to the respective Department. The Controller may adjust this fee annually as set forth in Section 249.1(c) of the Business and Tax Regulations Code.
7. Proof of these payments in the form of written authorizations or decals is requested, but not required at the time of applying for a MFF Permit. However, in no case shall DPW's Permit be deemed final and effective until the applicant obtains such authorizations or decals. The applicant shall have up to three (3) months after DPW conditionally approves the Permit to obtain such authorizations or decals. The applicant's failure to obtain such authorizations or decals by the end of this 3-month term shall result in Permit being deemed disapproved.

B. Annual Renewal Fee
1. Every MFF Permit is subject to an annual renewal DPW filing fee.
2. In addition, if during the course of the preceding year, if DPW receives one (1) or more substantiated complaints against the Permittee and/or permit location(s), or if DPW issued one (1) or more Notice of Violation against the Permit, DPW shall assess an additional processing fee.
3. Where substantiated complaints were received and/or Notices of Violation were issued, DPW shall also assess additional inspection fees.

C. Annual Adjustment. All DPW, DPH, and SFFD fees listed herein may be subject to annual adjustment or may be modified through action of the Board of Supervisors. At the beginning of the City's fiscal year (July 1) or at any other time that fee amounts are modified, DPW will post an updated fee schedule with current fee amounts.

VII. OPERATIONAL REQUIREMENTS

A. Coordination
1. Identification Card. The Director shall issue an identification card to each Permittee. The identification card must be in the possession of the operator at all times during operating hours of the mobile catering vehicle.

2. Each Mobile Food Facility Vendor or Mobile Food Facility employee shall produce the Mobile Food Facility permit, a valid San Francisco Business Registration Certificate from the Office of the Treasurer and Tax Collector, a valid Certificate of Sanitation, an identification card, a description of the approved Location(s) and hours of operation for a Mobile Food Facility, and all other documents required so that the Location of the Mobile Food Facility may be checked and verified upon demand by any Police Officer, the Director, the Director of Public Health, or the Fire Marshal.
    a. The Permittee shall affix a DPH Certification of Sanitation Decal to a pushcart in a prominent location and shall affix the Certification of Sanitation to the lower right-hand corner of the windshield for any Mobile Catering vehicle.
    b. The Permittee shall affix a DPW approved and issued decal to the lower left-hand bumper of any Mobile Catering vehicle.
    c. Permittees operating a MFF shall also have the following documentation visible to the public during their operation hours: MFF Permit, a valid San Francisco Business Registration Certificate, a valid DPH Certification of Sanitation Decal, an identification card, a current SFFD inspection decal, a description of the approved locations, and approved hours of operation.
3. If the San Francisco Municipal Transportation Agency (SFMTA) authorizes use of a no parking sign for MFFs, a MFF Vendor may display such sign(s) at the location of the MFF subject to any SFMTA rules and regulations for posting of such signs

B. Conflicts
1. No permit shall be required if any City Department issues a valid permit for occupancy of the subject location for street fairs, farmers markets, temporary use, or other permitted activities as long as the MFF has a current and valid Certificate of Sanitation and Fire Marshal approval.
2. The Director of Public Works may temporarily suspend an approved permit if any City Department issues a permit for occupancy of the approved location for street fairs, farmers markets, temporary use, street or building construction, or other permitted activities;
    a. At the Permittee's request, the Director may, but is not required, to authorize a temporary relocation of a MFF;
    b. The Director's authorization for the temporary relocation shall be in writing and available at the MFF for review by City officials;
3. No additional permit shall be required for said temporary relocation provided that the MFF has a current and approved Certificate of Sanitation from DPH and approval from the Fire Marshal.

C. Suspension or Revocation.
1. The Director may suspend or revoke a permit if he/she determines that the public interest necessitates use of the Mobile Food Facility Location for a different public purpose, such as a bicycle lane, traffic reconfiguration, bulb-out, bus stop, or other pedestrian, bicycle, vehicular safety measure consistent with City policies.

2. The Director may suspend or revoke for good cause any permit or any permit location which has been issued pursuant to this Article, if he or she finds, after a noticed public hearing, that the Permittee has engaged in or been found guilty of any of the following acts:
    a. Fraud, misrepresentation, or false statement contained in the permit application.
    b. Violation of provisions of State law regarding MFF, the State Vehicle Code, this Article and Order, San Francisco Municipal Code, and/or a determination by the Director of Public Health and/or Fire Marshal or their designee, related to the operation of any MFF operated by this Permittee.
    c. Any violations occurring as specified herein for another MFF Permit issued to the same Permittee.
    d. The MFF Vendor is operating in a manner that negatively impacts the public's health, safety, convenience, and/or welfare.
    e. The MFF Vendor habitually violates the Good Neighbor Policies set forth in Section 184.94 of the PWC.
    f. The MFF has not operated in the permitted location for a period of six (6) months or more.
    g. The Director of Public Health or his/her designee may also revoke a Certificate of Sanitation if he/she finds that the Permittee has violated the Public Health Code or State law regarding MFF uses. The Fire Marshal or his/ her designee may also revoke a SFFD Permit and Inspection Decal if he/ she finds that the Permittee has violated the Fire Code or State law regarding MFF uses. These revocations may be in addition to, or separate from any action enforced by the Director.
3. If the Director determines that the Permittee has exceeded the scope of the permit, either in terms of duration or area, or violates any other of the permit terms or conditions, the Director shall order the Permittee to correct the violation within a specified time period, to be determined based on the violation(s). If any person occupies the public right-of-way without a permit, the Director shall immediately order the violator to vacate the occupied area.
4. Failure to appear for the annual renewal shall be deemed a violation and may be cause for suspension or revocation of the permit.
5. Failure to pay any fee assessed under these provisions shall constitute good cause for immediate revocation of the permit and/or removal of unpermitted obstructions.

D. Penalties.
1. Criminal Penalties - any person who violates any of the provisions of this Article and Order shall be guilty of an infraction at each location where such violation occurs. Each violation determined to be an infraction shall be subject to a fine.
2. Civil Penalties. The Director may call upon the City Attorney's Office to initiate an action for injunction to restrain, summary abatement to cause the correction or abatement of the violation of this Article, and for assessment and recovery of a civil penalty with reasonable attorney's fees to be assessed for such violation.

3. Administrative Penalties. The Permittee may be subject to administrative citations if they are found to be in violation of any of the provisions and/or guidelines of this Article and/or Order.
    a. The administrative citation shall not exceed $1000 per day for each violation;
    b. If the violation is not corrected as ordered by City officials, the Permittee shall be subject to an additional penalty fee of up to $5,000 per day for each violation;
    c. The above penalties shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

E. Removal of MFF.
1. The Director is authorized to order the immediate removal of a MFF if the MFF has no permit and/or when, in his/her opinion, , the MFF constitutes a safety hazard or public nuisance, or when the presence of an emergency requires immediate removal of the MFF. After notification by the Director to remove the MFF, the Permittee shall immediately remove or cause to be removed the MFF from the street area by its owner. If the owner does not remove the MFF immediately, the Director may order DPW to remove the MFF. The owner shall pay the City all costs for removal and storage of the MFF. No MFF shall be placed at the subject location until the conditions which have caused the removal order shall have been abated to the satisfaction of the Director.
2. The Director is authorized to remove, or cause to be removed, any MFF placed in a street or sidewalk area in violation of any other provision of this Article and/or Order. The Permittee/Pushcart owner shall commence removal no earlier than 48 hours after notice is given describing the violation(s). The notice shall be both mailed to the pushcart owner and posted in a conspicuous manner on the MFF, and shall contain the following:
    a. The permit condition(s) violated,
    b. The date/time of posting the violation notice,
    c. The location of the MFF,
    d. The identity of the person issuing the notice of violation(s),
    e. A statement giving notice of 48 hours to remedy the violation(s).
3. MFFs that have been removed may be recovered within ninety (90) days from the date of seizure, and upon payment of a sum equal to the cost of removing and storing said MFF including a 20 percent surcharge for administrative costs as determined by DPW, as well as any additional costs incurred by DPW in disposing of any materials or merchandise contained in the MFF. Costs incurred as a result of removal under this Section are in addition to any fines or penalties incurred under Section 184.96 of the PWC.

VIII. GOOD NEIGHBOR POLICY. The Permittee shall manage their MFF with in accordance with the following good neighbor policies:

A. The Permittee shall maintain the quiet, safety and cleanliness of the approved MFF location(s);

B. The Permittee shall provide adequate storage and disposal of debris and garbage; Noise and odors shall be contained within immediate area of the MFF location so as not to be a nuisance to neighbors;

C. The Permittee shall prominently post and/or display a notice urging patrons to leave the MFF premises and neighborhood in a quiet, peaceful and orderly fashion and to please not litter or block driveways in the neighborhood;
D. Employees of the MFF shall walk a 100-foot radius from the approved MFF location within thirty (30) minutes after close of business and shall pick up and dispose of any discarded beverage containers or other trash left by patrons.

IX. HOLD HARMLESS CLAUSE The following language is hereby incorporated into all MFF Permits:

A. In consideration of this Permit being issued for the work described herein, the Permittee on its behalf and that of any successor or assign, and on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, ordinances and regulations.

B. The Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including without limitation, attorneys' fees and costs (collectively "claims") of any kind allegedly arising directly or indirectly from (i) any act by, omission by or negligence of, Permittee or its subcontractors, or the officers, agents, or employees of either while engaged in the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facilities, or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, goodwill, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause or claims arising at any time, and (iv) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Permittee in, under, on or about the property subject to this Permit or into the environment. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety to the environment.

C. The Permittee must hold harmless, indemnify and defend the City regardless of the alleged negligence of the City or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the City. The Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend

the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. The Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.

D. The Permittee shall obtain and maintain through the terms of this Permit general liability, automobile liability or workers' compensation insurance as the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any operations under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit, with complete copies of policies furnished promptly upon City request.

E. The Permittee and any permitted successor or assign recognize and understand that this Permit may create a possessory interest.

1/17/2014

X

Sanguinetti, Jerry
Bureau Manager

1/19/2014

X

Sweiss, Fuad
Deputy Director and City Engineer

1/22/2014

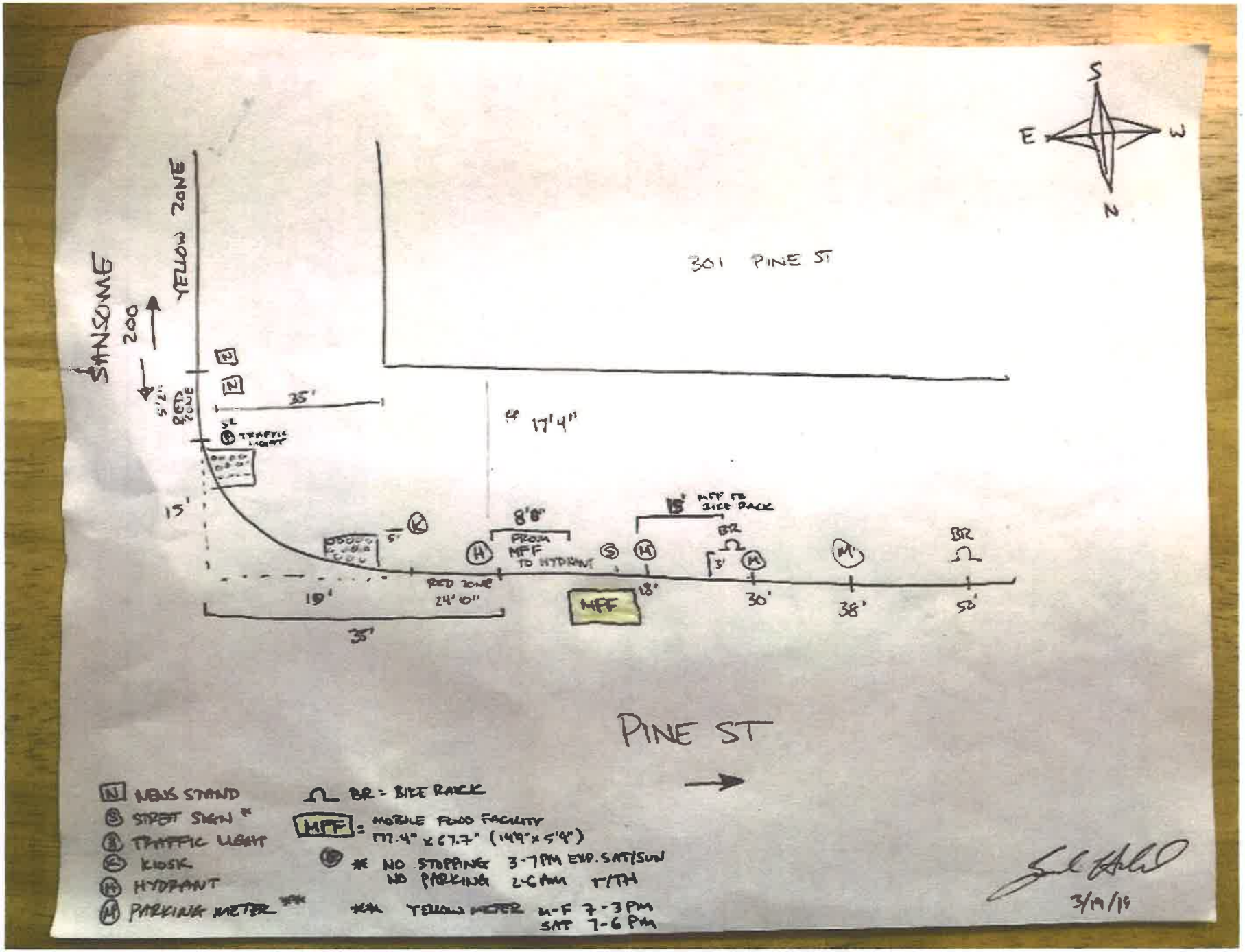
X Mohammed Nuru

Nuru, Mohammed
Director, DPW

EXHIBIT 2

M
F
F

EXHIBIT 3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SANSOME
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YELLOW ZONE
RED ZONE
35'
17'4"
TRAFFIC LIGHT
15'
8'8"
FROM MFF TO HYDRANT
15' MFF TO BIKE RACK
BR
RED ZONE 24'10"
19'
MFF
18'
30'
38'
52'
35'
PINE ST
NEWS STAND
STREET SIGN
TRAFFIC LIGHT
KIOSK
HYDRANT
PARKING METER
BR - BIKE RACK
MFF = MOBILE FOOD FACILITY 177.4" x 67.7" (14'9" x 5'9")
NO STOPPING 3-7PM EXP. SAT/SUN
NO PARKING 2-6AM T/TH
YELLOW METER M-F 7-3PM SAT 7-6PM
3/19/19

EXHIBIT 4

EXHIBIT 5

DHL

EXHIBIT 6

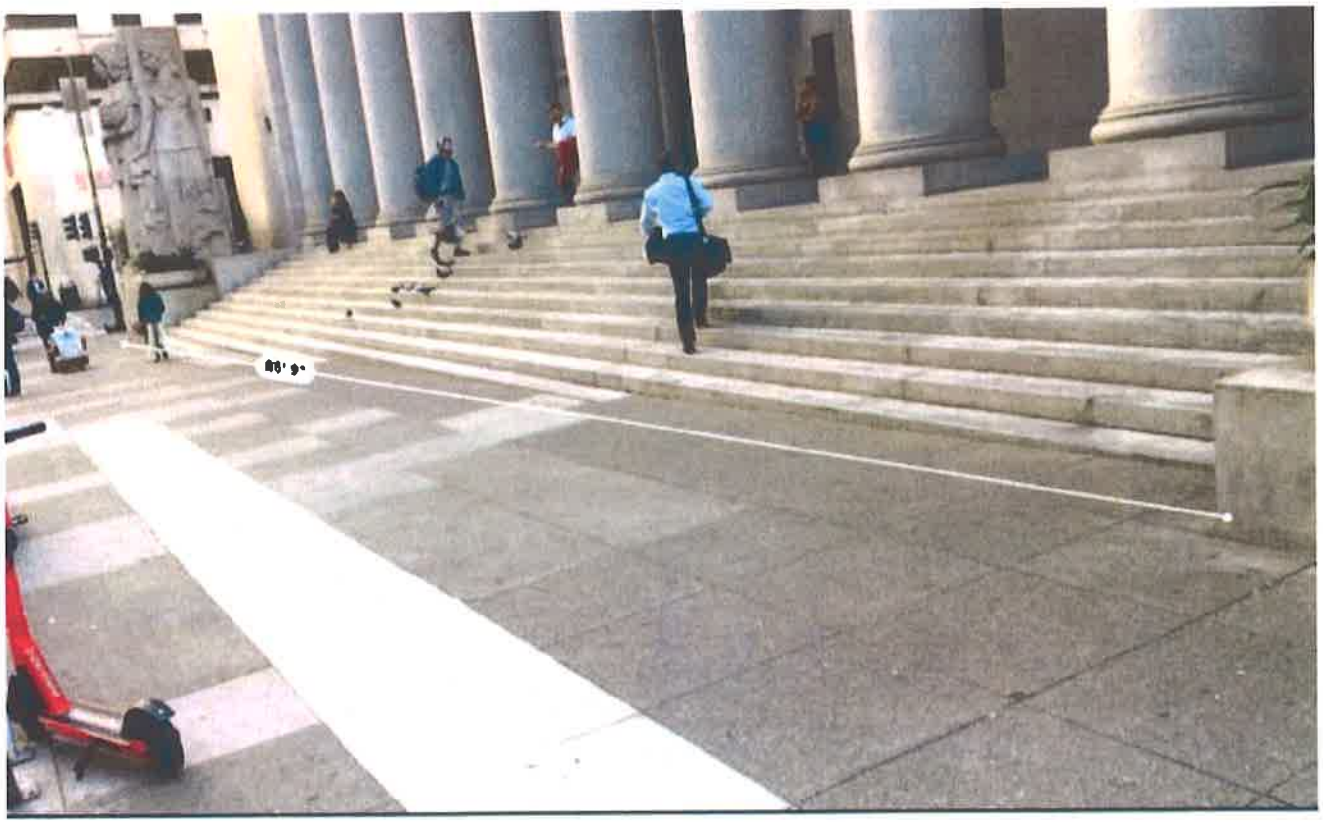


EXHIBIT 7

SIGNATURE SMOOTHIES

20 oz. Nutrient-Dense Smoothies

FLAX MASTER THE ALL-IN-ONE
The All-In-One: Earthfusion™ protein, açaí, banana, blueberry, almond butter, cinnamon, coconut water, maca, L-glutamine, vitamin B-12 & flax oil
(416 cal)

GREAT BREAKFAST
A balanced, complete meal: Earthfusion™ protein, banana, almond butter, almond milk & granola
(363 cal)

BLUEBERRY BLISS
Great antioxidant-rich boost: Earthfusion™ protein, blueberry, banana, almond butter & hemp milk
(452 cal)

CHOCOLATE SUPREME
Superfood energizer: Earthfusion™ protein, banana, raw cacao, maca, mesquite, almond butter & hemp milk
(547 cal)

SLIM DOWN
A perfect low cal protein shake: Earthfusion™ protein, strawberry, pineapple, coconut water & slim down boost
(242 cal)

MUSCLE UP
Lean and mean fuel: Earthfusion™ protein, banana, almond butter, almond milk & L-glutamine
(388 cal)

RADIANT SKIN
Beauty boost that begins within: Papaya, açaí, green detox powder, almond milk, flax oil, tocotrienols, lecithin & plant sweetener
(274 cal)

PROTEIN · LOW-CAL · ENERGY · DETOX · IMMUNITY

PREMIUM SMOOTHIES

20 oz. Nutrient-Dense Smoothies

SIGNATURE EARTH SHAKE
High-protein, low-cal nutrition: Earthfusion™ protein, ice & hemp milk (chocolate or vanilla)
(232/331 cal)

AMAZON IMMUNITY
Immune-boosting properties to increase resistance: Pineapple, acerola, lemon, ginger, hemp milk & immunity boost
(310 cal)

GREEN DETOX
High-fiber, cleansing benefits: Banana, pineapple, hemp milk & raw kale
(364 cal)

AÇAÍ PURE
Power-up antioxidant from the Amazon: Açaí, blueberry, almond milk & antioxidant cascade
(260 cal)

EARTHBERRY
Low-cal, nutrient-rich nutrition: Blueberry, strawberry, açaí, agave & coconut water
(285 cal)

MIAMI BEACH
Low-cal snack: Banana, papaya, pineapple & coconut water
(257 cal)

BERRY SIMPLE
Simple and classic smoothie: Strawberry, banana, hemp milk & plant sweetener
(384 cal)

MATCHA GREEN-T POWER
Natural energy and antioxidants: Banana, matcha green tea, hemp milk, spirulina & plant sweetener
(270 cal)

EARTHBAR SIGNATURE BOWL
Organic acai blended with banana and hemp milk (chocolate or vanilla), topped with fresh banana, strawberry, and granola (489 cal)

POWER BOOSTS

Add fuel to your smoothie (10-110 cal)

ENERGY
B-12 + Ginseng
Provides an even 'lift' throughout the day; nourishes your nervous system and supports the adrenals

WEIGHT MANAGEMENT
Slim Down + Detox
Boosts metabolism to assist in weight loss

PERFORMANCE
Vanilla or Chocolate Plant Protein + Joint Tonic
Aids muscle recovery and supports smooth muscular reflexes

PHYSIQUE
Slim Down Tincture + Vanilla or Chocolate Plant Protein
Supports lean muscle growth

DETOX
Liver Detox + Green Tea Tincture
Initiates the cleansing process and provides antioxidant support

RECOVERY
Immunity + Antioxidant Cascade
Gives an immune system boost, benefitting from the super-charged antioxidant value found in our original superfruit extract

SHOTS

WELLNESS
Preventative immune boost with anti-bacterials that fight microbes on contact

COLD & SINUS
Preventative immune boost with natural herbs that open sinuses for easier breathing

E3 LIVE
Organic, wild harvested blue-green algae

BRAIN ON
E3 live + "brain on" for mood elevation and focus

BRAIN ON SUPREME
Super-enhanced "brain on"

L-CARNITINE
Natural fat burner

earth healthy supply co. bar

COLD-PRESSED JUICES · GRAB-AND-GO MEALS · NUTRITIOUS SNACKS · VITAMINS & SUPPLEMENTS · ENERGIZING CONFECTIONS

EXHIBIT 8

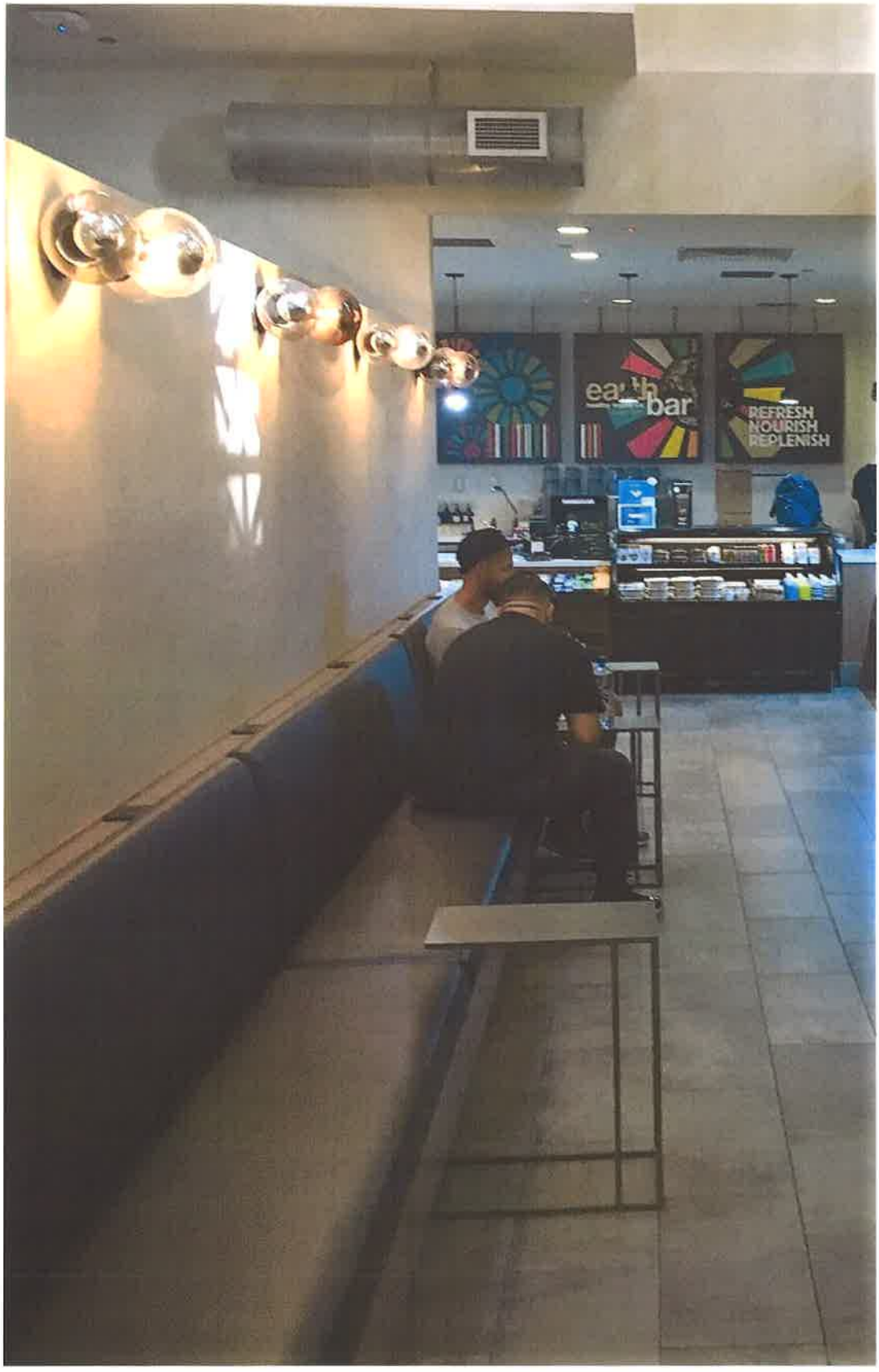

bar
REFRESH
NOURISH
REPLENISH

EXHIBIT 9

earth bar
healthy supply co.
REFRESH
NOURISH
REPLENISH

EXHIBIT 10

earthbar
healthy supply co.
since 1971
OPEN TO
THE PUBLIC

EXHIBIT 11

https://www.yelp.com/biz/earthbar-san-franc | Earthbar - 50 Photos & 17 R...

View Favorites Tools Help

yelp | Find tacos, cheap dinner, Max's | Near San Francisco, CA | g In | Sign Up

Restaurants | Home Services | Auto Services | More | Write a Review | For Businesses

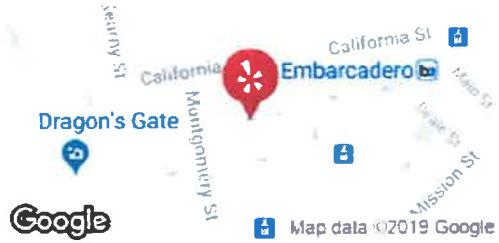
Earthbar

Claimed

17 reviews Details

Write a Review | Add Photo | Share | Save

$$ · Juice Bars & Smoothies, Vitamins & Supplements, Acai Bowls Edit



301 Pine St
Equinox Gym
San Francisco, CA 94104
b/t Sansome St & Century Pl
Financial District
Edit

Get Directions

(415) 672-9856

earthbar.com

Message the business

Send to your Phone

EXHIBIT 12

Earthbar at 301 Pine Street: Google Search Results

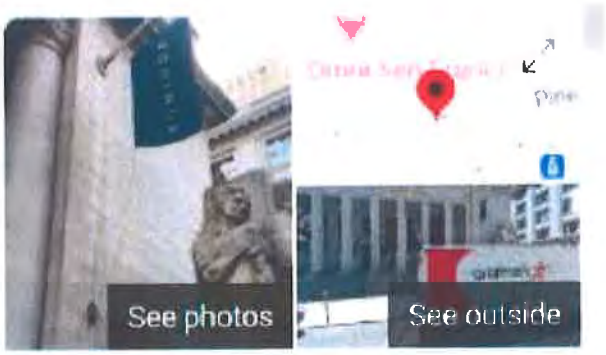
Google restaurant 301 pine street

Earthbar - 50 Photos & 17 Reviews - Juice Bars & Smoothies ...

https://www.yelp.com › Food › Juice Bars & Smoothies

★★★½ Rating: 3.5 - 17 reviews · Price range: $$

Juice Bars & Smoothies, Vitamins & Supplements, Acai Bowls. ... "Grab any smoothie on the menu and you won't be disappointed...except radiant skin...but it's still good for you, so get it.". ...



Earthbar

Website Directions Save

5.0 ★★★★★ 2 Google reviews

EXHIBIT 13

SFDPH
Environmental HEALTH

City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH

Restroom Verification Form for Mobile Food Facilities (MFF)

Anytime a MFF is parked in one location for more than one (1) hour, an approved restroom facility must be available for employee's use within 200 feet travel distance from MFF site.

MFF Owner

Name(s): Adar Halil Date: 5.31.18

Home Address: 501 Taylor St. Apt #301 San Francisco, CA 94102 Phone #:

Business Location Address: 281 Geary St Mobile #: (831) 402-7802

License Plate #: 5DFJ199 Vehicle Make/Model: Volks Wagon / Westfalia Camper

Describe where MFF is parked and typical hours of operation: MFF will be parked close to 281 Geary St and will operate aprox 6pm-10pm Fri + Sat 11am-10pm Sun

Restroom Facility Owner

Name: Public Toilet Company Public Services & Government

Address: 252 Geary St Phone #: Mobile #:

I, _____, owner of the restroom facility located at 252 Geary St, grant full permission to the above mentioned MFF to use said restroom facility during MFF's business hours. I understand that the facility shall be maintained clean and sanitary with adequate supplies of paper towel and liquid soap at all times.

I, Adar Halil The, MFF Owner, has provided the San Francisco Department of Public Health, Environmental Health, the above restroom facility for the use of my employees with a measured distance of 125 Ft. To the MFF business location.

Restroom Facility Owner (Print Name)	Signature	Date
Adar Halil	[signature]	5.31.16
MFF Applicant (Print Name)	Signature	Date

For Department of Public Health Office Use Only

Special Application or facility notes:

EXHIBIT 14

Earthbar at 301 Pine Street – Public Record Request Results

1. Department of Public Works

Public Record Requests
CITY AND COUNTY OF SAN FRANCISCO MAKE REQUEST ALL REQUESTS DOCL

‹ Request #19-3433 › ☑ CLOSED

Please provide all documents, photos, videos, and emails related to the following mobile food facility permits: 19MFF-00018, 18MFF-0113, and 16MFF-0030. This request includes all permit application materials, such as the application itself and the Restroom Verification form.

☑ **Request Closed** Hide Public

We have conducted a diligent search for records responsive to your request. We have located responsive records and are releasing them to you.

Please note, the restroom verification form is a requirement of the Department of Public Health to get a health permit. We do not have a copy of it.

2. Department of Health

Public Record Requests
CITY AND COUNTY OF SAN FRANCISCO MAKE REQUEST ALL REQUESTS DOC

‹ Request #19-4047 › ☑ CLOSED

Restroom verification form submitted to DPH in association with mobile food facility permit application 18MFF-0113

External Message Requester + Staff

We do not have a restroom verification in our records for San Francisco's Hometown Creamery at 301 Pine Street and for La Jefa at 155 Sansome Street.

October 16, 2019, 11:14am by Maria Huerta (DPH), Temp. Food Facilities (Staff)

EXHIBIT 15

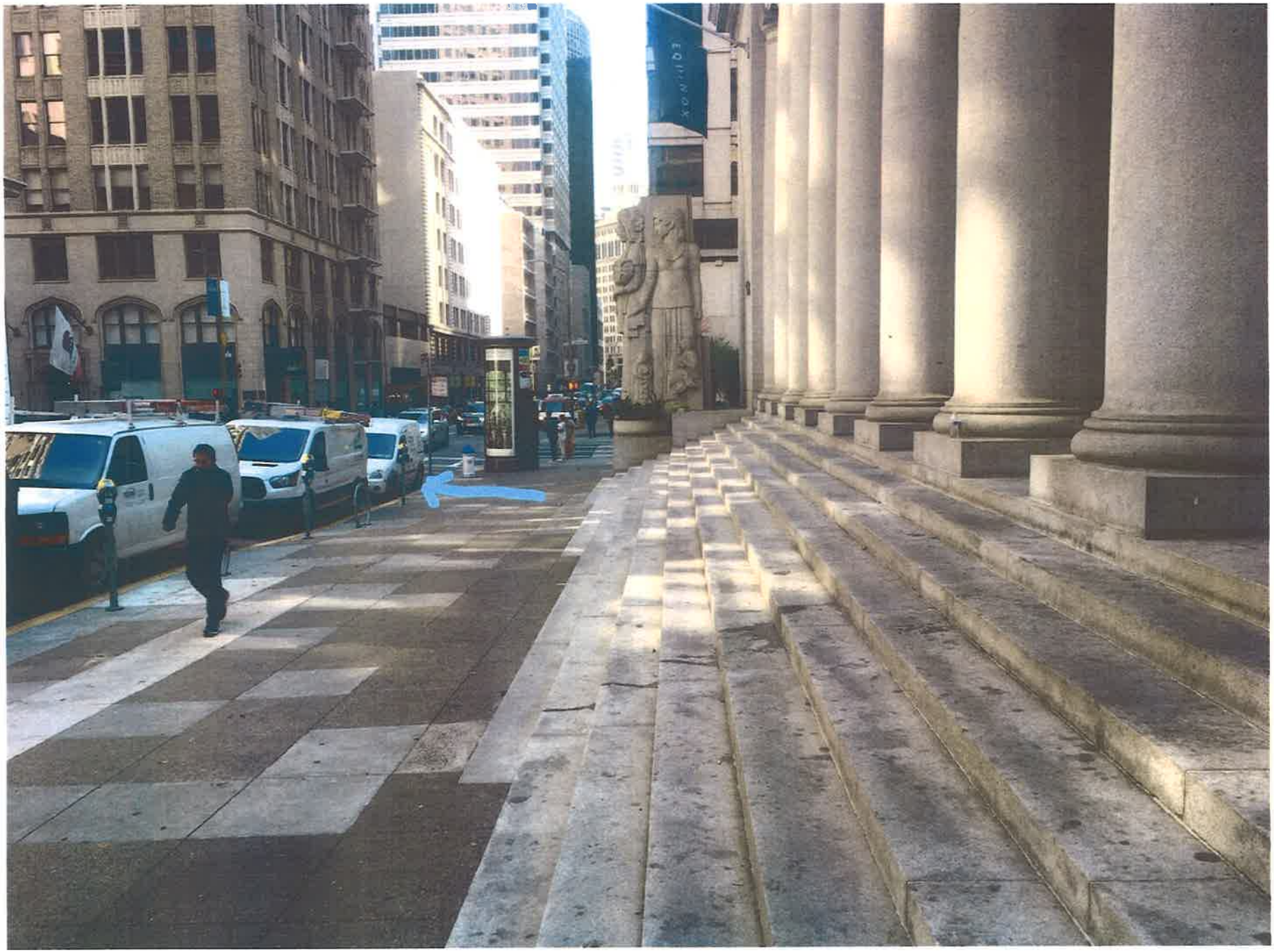


EXHIBIT 16

December 29, 2016

Edwin M. Lee
Mayor

Mohammed Nuru
Director

Jerry Sanguinetti
Manager

Street Use and Mapping
1155 Market St., 3rd floor
San Francisco, CA 94103
tel 415-554-5810

sfpublicworks.org
facebook.com/sfpublicworks
twitter.com/sfpublicworks

Philz Coffee Truck
Attention: Mr. Greg Matt
399 Golden Gate Ave.
San Francisco, CA 94102

Dear Mr. Matt,

Pursuant to Section 184.97 of Article 5.8 of the Public Works Code and to Section VII of DPW Order No. 182101, the location listed below, currently under Permit number 16MFF-0030 (Originally 14MFF-0123), is revoked.

Location: 301 Pine St.: On Sansome St approximately 36' from Pine St.

Pursuant to Section 184.97 of Article 5.8 of the Public Works Code, and in an effort to assist all parties, the Director may authorize a temporary or permanent relocation to accommodate.

A comparable location has been found, and it is authorized for Philz Coffee Truck to relocate to the Pine street frontage of 250 Pine St. (Block 0261, Lot 007) as depicted on Exhibit 1.

The effective date of the revocation of the specified location and relocation is December 30, 2016.

The permit holder shall comply with all permit conditions and shall not violate Article 5.8 of the Public Works Code and Public Works Order No. 182,101, nor any other City of San Francisco, State, and Federal regulations.

The following shall also apply:

Per Public Works Order No. 182,101 Section (III)(D): All Applicable parking regulations shall be observed.

1. The MFF shall comply with all existing color curb zones.

Per Public Works Order No. 182,101 Section (VIII): The Permittee shall manage their MFF in accordance with the Good Neighbor policies.

For further questions, you may contact Public Works, Bureau of Street-use and Mapping at (415) 554-5810 or mobilefood@sfdpw.org.

Thank you,

Rahul Shah
San Francisco Public Works
Bureau of Street-Use and Mapping

EXHIBIT 17

6' 7"

EXHIBIT 18

https://www.yelp.com/biz/dillers-delicatesser

Diller's Delicatessen - CLOS...

View Favorites Tools Help

Yelpers report this location has closed. F

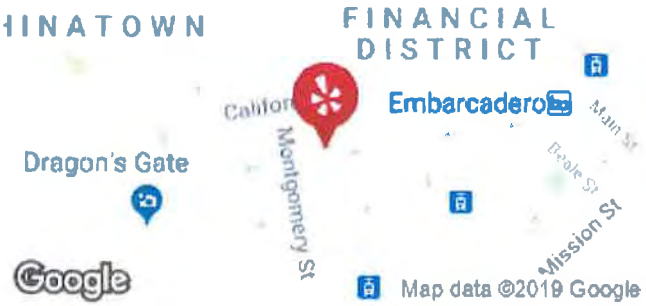
Diller's Delicatessen Claimed

123 reviews

$ · Delis, Sandwiches, Breakfast & Brunch Edit

Write a Review Add Photo Share Save

Location & Hours



Add business hours

348 Pine St
San Francisco, CA 94104

Get directions

EXHIBIT 19

LEIDESDORFF PLACE
LAUNCH
Señor Sisig
Kilinino Fusion Food Truck

BRIEF(S) SUBMITTED BY DETERMINATION HOLDER(S)

November 11th, 2019

Rick Swig, President
Ann Lazarus, Vice President
Darryl Honda, Commissioner
Rachael Tanner, Commissioner
Eduardo Santacana, Commissioner

Board of Appeals
1650 Mission Street, Room 304
San Francisco, CA 94103

Re: Appeal No: 19-110
Appeal Title: The Empire Group vs. SFPW-BSM
Hearing Date: November 20, 2019
Subject Property: 301 Pine Street
Permit No: 18MFF-0113

Dear President Swig, Vice President Lazarus, and Commissioners Honda, Tanner and Santacana:

I am writing as the business owner of permit 18MFF-01113 which was approved by the San Francisco Department of Public Works. I have reached out to the appellant's representative directly and have not received a response, so I've included our responses to the allegations raised by the appellant in their brief regarding this appeal below:

A. 75-Foot Radius Entrance Requirement

Our permit complies with DPW Order 182,101, Section III (E)(9). The appellant disregards the fact that the 75-foot radius requirement ONLY APPLIES when the restaurant has direct street access to its primary entrance. (EXHIBIT 1-Section III (E)(9)(c)).

The “primary entrance” the Appellant measures from in their brief has direct street access to a “Gymnasium front check-in desk”. Moving westward from the entrance within the building, there is a designated “Pro-Shop”. At the end of the Pro-Shop area, you enter the juice bar (restaurant).[1] EXHIBITS 2 and 3 provide of a view of the front door entrance of the gymnasium’s front check-in desk and the designated Pro Shop area. Furthermore, EXHIBIT 4 illustrates at the end of the Pro-shop, just prior to the juice bar (the restaurant) entrance, there is a designated Point of Sales system and cash register for the pro-shop.

The claim that the juice bar (the restaurant) is designed to appeal to the general public passing 301 Pine is extraordinarily deceptive. The picture of the sign for the juice bar that was included in the appellants brief that reads “Open to the Public” is tucked away down an alley (on Century) (EXHIBIT 5). Furthermore, the sign is located in front of a door, down the alley and away from 301 Pine St that is locked (EXHIBIT 6). The sign and the front door it hangs over is approximately 181 feet from our proposed location (EXHIBIT 7).

There is no signage or instructions to direct the general public on how to enter the juice bar (the restaurant) listed on the sign. However there is substantial signage of the gymnasium; two signs of ‘Equinox” on the corner of Pine St and Sansome St (Exhibit 8) and two signs of “Equinox” directly in front of 301 Pine St and along with four additional signs promoting the fitness club to entice the public (EXHIBIT 9).

---

[1] San Francisco Building Department, permit: 201408012839

B. Department of Public Health Requirements

We have obtained and complied with all requisites to operate at this location.

C. Good Neighbor Policy

We have tried to reach out to the appellants directly to hear their specific concerns about the impact our operation would have on the neighborhood, in an effort to make any reasonable accommodations possible, and have yet to hear back (EXHIBIT 10).

The previous MFF the appellant discusses in their brief is not applicable for the following two reasons:

(1) **Different location**: Philz Coffee truck operated at 155 Sansome St (where he sidewalk width is 10 feet and 10 inches (EXHIBIT 11).

Our location is at 301 Pine St, where the sidewalk width is over 16 feet. (EXHIBIT 12). It is important to note that Philz Coffee truck never operated at our proposed location at 301 Pine

(2) **Different operation:** Our operation is a fast "grab n go" operation, where our offerings are limited and prepared before hand. Patrons are able to order, pay and be provided their ice cream in under 60 seconds.

Philz Coffee truck has an array of options and its marquee sales item is pour over coffee. This operation involves placing a specified and detailed

order with many different modifiers. The pour over coffee, which is made to order, has a preparation to completion time of at least 5 minutes.

Thus Philz Coffee truck should not be applicable for consideration in the evaluating this permit.

D. Fire Hydrant Requirement

Our permit complies with the provision set forth in Section III (C)(4), regarding fire hydrants. The code states that,

> "The permit shall not obstruct the use of any existing City facilities….All MFFs must maintain a minimum clearance of: Seven feet from fire hydrants." (EXHIBIT 13).

The appellant is correct that the red zone distance for the fire hydrant on-site is approximately 6 feet and 7 inches, however the Appellant fails to note the parking meter is 24 feet from the fire hydrant, and the length of our MFF is 14 feet; providing a 10 foot clearance between our MFF and the hydrant. (EXHIBIT 14).

E. Similar Products in the Vicinity

The nearest ice cream shop to 301 Pine St is approximately seven blocks from our permitted location (EXHIBIT 15). During our permit application process we canvased the neighborhood to see if there were any independent ice cream shops in the area, and did not find any close by.

At our brick and mortar-creamery location in the Inner Sunset, where we manufacture our ice cream product and sell it retail on-site, there are 5 other shops selling ice cream within a couple blocks walking distance (Holy Gelato, Honey Creme, Easy Breezy, Tart to Tart, and Lets Roll, along with an ice cream truck inside Golden Gate Park, one block from our shop (Twirl & Dip).

To claim that our present would put other brick and mortar retail establishments at risk is unreasonable.

CONCLUSION

In pursuing this permit we followed all of the requirements set forth in the code. We find the appellants' allegations to be inaccurate, unreasonable and in part deceptive. Therefore, we respectfully ask The Board to not overturn our permit and allow my brother and me to continue to pursue growing our business.

EXHIBIT 1

3. On the sidewalk or street immediately adjacent to property under the jurisdiction of the Recreation and Park, Commission other than the areas specified above, unless written consent is obtained from the General Manager of the Recreation and Park Department.
4. On the sidewalk or street under the jurisdiction of Caltrans e.g. Van Ness Avenue, 19th Avenue, etc. unless written consent from State of California District 04 is first obtained.
5. No occupancy is allowed within SFMTA's AT&T Park restricted streets from two (2) hours before until two (2) hours after events, unless written consent from SFMTA is first obtained.
6. On the north side of Jefferson Street between Jones and Taylor Streets.
7. Within 500 feet of the property lines of any public middle schools or junior high schools between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday.
8. Within 1,000 feet of the property line of any public high school between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. This clearance may be within 750 feet for the following public schools: John O'Connell, Mission High School, Hilltop High School, Galileo High School, International Studies Academy, Principal's Center, Civic Center High School.
9. Within a 75-foot radius of any restaurant as measured from the centerline of the primary entrance to the restaurant. The restaurant shall be operational at the time the MFF applies for a permit for the subject location.
    a. A restaurant is defined under Public Health Code Section 451 and includes: fast food and take-out establishments.
    b. If the restaurant provides any food product and marketing uses as defined in Public Health Code Section 440, then it shall not fall under the definition of a restaurant, as it applies to this Code and guidelines.
    c. The 75-foot radius requirement shall apply only if the restaurant has direct street access to it primary entrance.
10. If the active street-facing façade of a restaurant extends beyond 75 feet from its primary entrance, no Mobile Caterer or MFF shall operate along the curb directly fronting any active street-facing façade. A Mobile Caterer or MFF may not be parked within fifty (50) feet of the active street facing façade
11. Notwithstanding the location requirements, if a Pushcart Peddler has a valid permit for a specific location dated July 19, 1995 or earlier, said pushcart is exempt from this Section's location requirements and the Director may issue an exception as long as the permitted path of travel satisfies minimum applicable Federal and State accessibility requirements.

F. Hours of Operation. Subject to the notification requirements described in this Order, hours of operation shall be limited to 6 A.M. to 3 A.M., the following day. No MFF or MFF Vendor shall peddle between the hours of 3:00 A.M. and 6:00 A.M., unless the Director has approved such sales after consulting with the Planning Department and the Chief of Police.

G. MFFs shall be limited to providing service and sales at one location for no more than three (3) days per week. Such days shall be measured in 24-hour cycles so that they may begin on one day and extend to the following day so long as the subject cycle does not constitute more than 24 consecutive hours at a single location.

EXHIBIT 2

EXHIBIT 3

EXIT
earth bar
REFRESH
NOURISH
REPLENISH

EXHIBIT 4

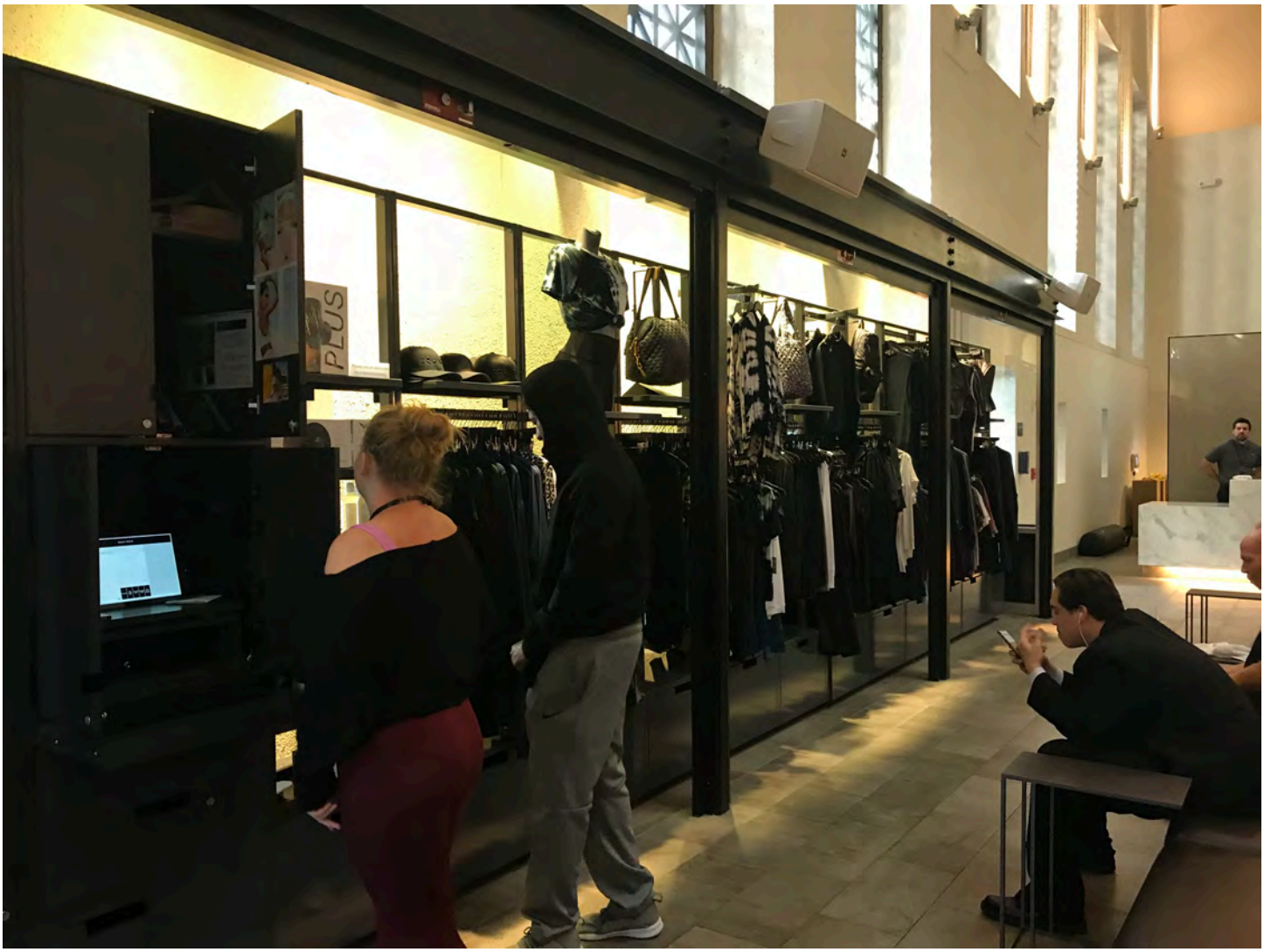

PLUS

EXHIBIT 5

earth bar
healthy supply co.
since 1971
OPEN TO THE PUBLIC
CENTURY

EXHIBIT 6

earth
Since 1871
OPEN TO
THE PUBLIC

EXHIBIT 7

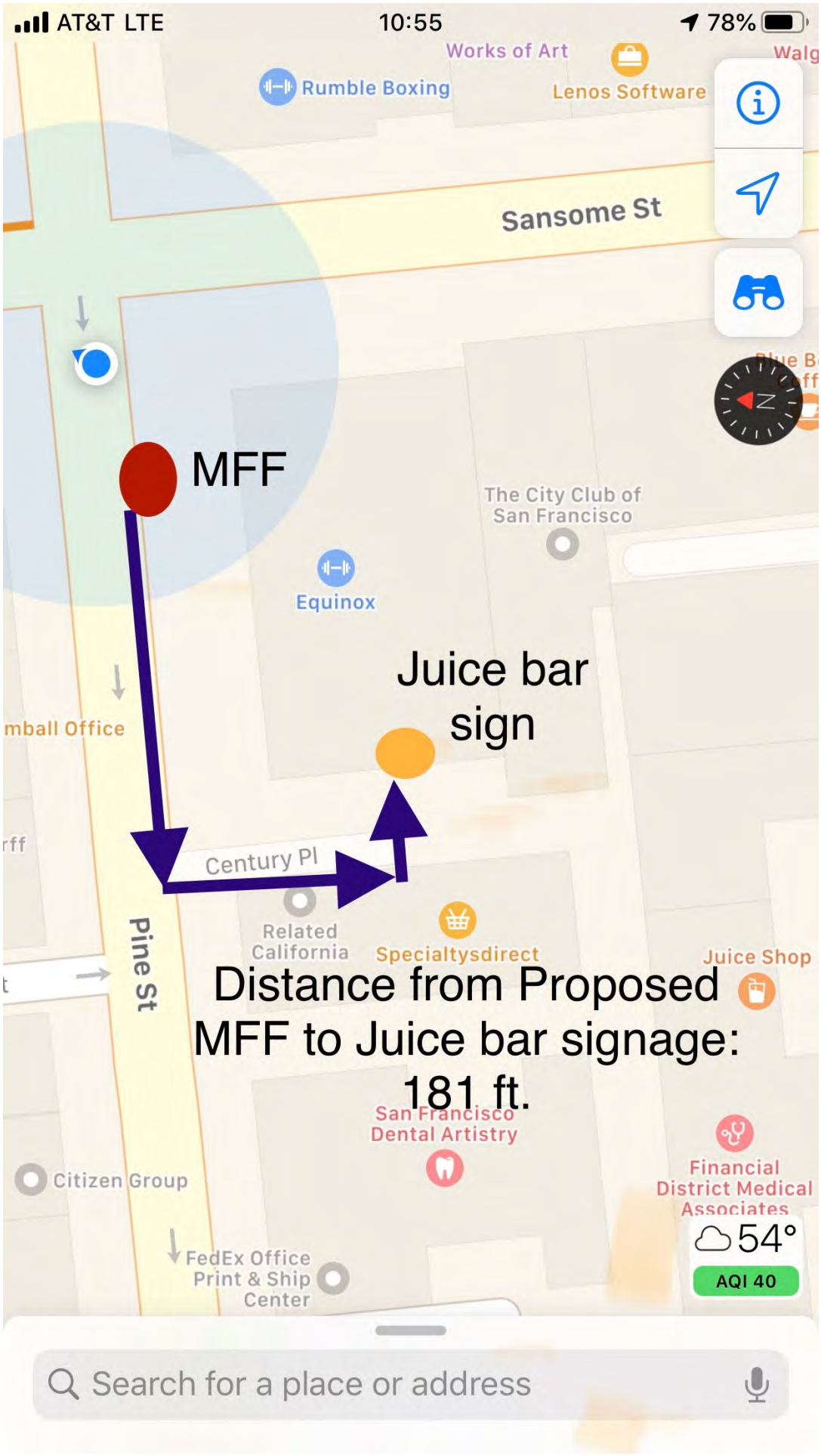

AT&T LTE
10:55
78%
Works of Art
Rumble Boxing
Lenos Software
Sansome St
MFF
The City Club of San Francisco
Equinox
Juice bar sign
Century Pl
Related California
Specialtysdirect
Juice Shop
Pine St
Distance from Proposed MFF to Juice bar signage: 181 ft.
San Francisco Dental Artistry
Financial District Medical Associates
Citizen Group
FedEx Office Print & Ship Center
54°
AQI 40
Search for a place or address

EXHIBIT 8

PACIFIC COAST STOCK EXCHANGE
EQUINOX
EQUINOX
7AM TO 8PM EVERYDAY
EXCEPT
TAXI
DO NOT ENTER
7AM TO 8PM EVERYDAY
EXCEPT
TAXI
Pine
EQUINOX
EQUINOX
LIVE HAPPILLY

EXHIBIT 9

PACIFIC COAST STOCK EXCHANGE
EQUINOX
IT'S NOT FITNESS. IT'S LIFE.
IT'S NOT FITNESS. IT'S LIFE.
IT'S NOT FITNESS. IT'S LIFE.
IT'S NOT FITNESS. IT'S LIFE.

EXHIBIT 10

Gmail by Google

Adar Halil <adar@sfhometowncreamery.com>

301 Pine St. Permit Appeal

1 message

Adar Halil <adar@sfhometowncreamery.com> Mon, Nov 4, 2019 at 11:40 AM
To: bgladstone@hansonbridgett.com

Good morning Mr. Gladstone,
My apologies for not reaching out sooner.
I received your brief regarding the appeal of our permit (18MFF-0113) located at 301 Pine St.

On the "objective criteria" you raise in regards to our approved permit, we respectfully disagree with your allegations.

I wanted to reach out to discuss whether there are genuine concerns your clients may have with our presence at 301 Pine St. I'm unclear whether your clients are familiar with our business & the specifics of our operation, and if that would have an impact on their sentiments toward us being in the neighborhood.

Having a solid relationship with our neighbors wherever we operate is very important to my brother and me. We are open to dialogue and making reasonable accommodations that would lead to a copacetic environment.

Thank you for your time
Cheers
Adar

--

Adar Halil, J.D. - Owner
1290 9th Ave.
San Francisco, CA 94122

Website: sfhometowncreamery.com
Instagram: instagram.com/sfhometowncreamery
Facebook: facebook.com/sfhometowncreamery

EXHIBIT 11

REAL ESTATE
EQUINOX
E Q

EXHIBIT 12

EQUINOX
NO PARKING
2AM TO 6AM
TUES THURS
STREET CLEANING
BARNARD QUAD

EXHIBIT 13

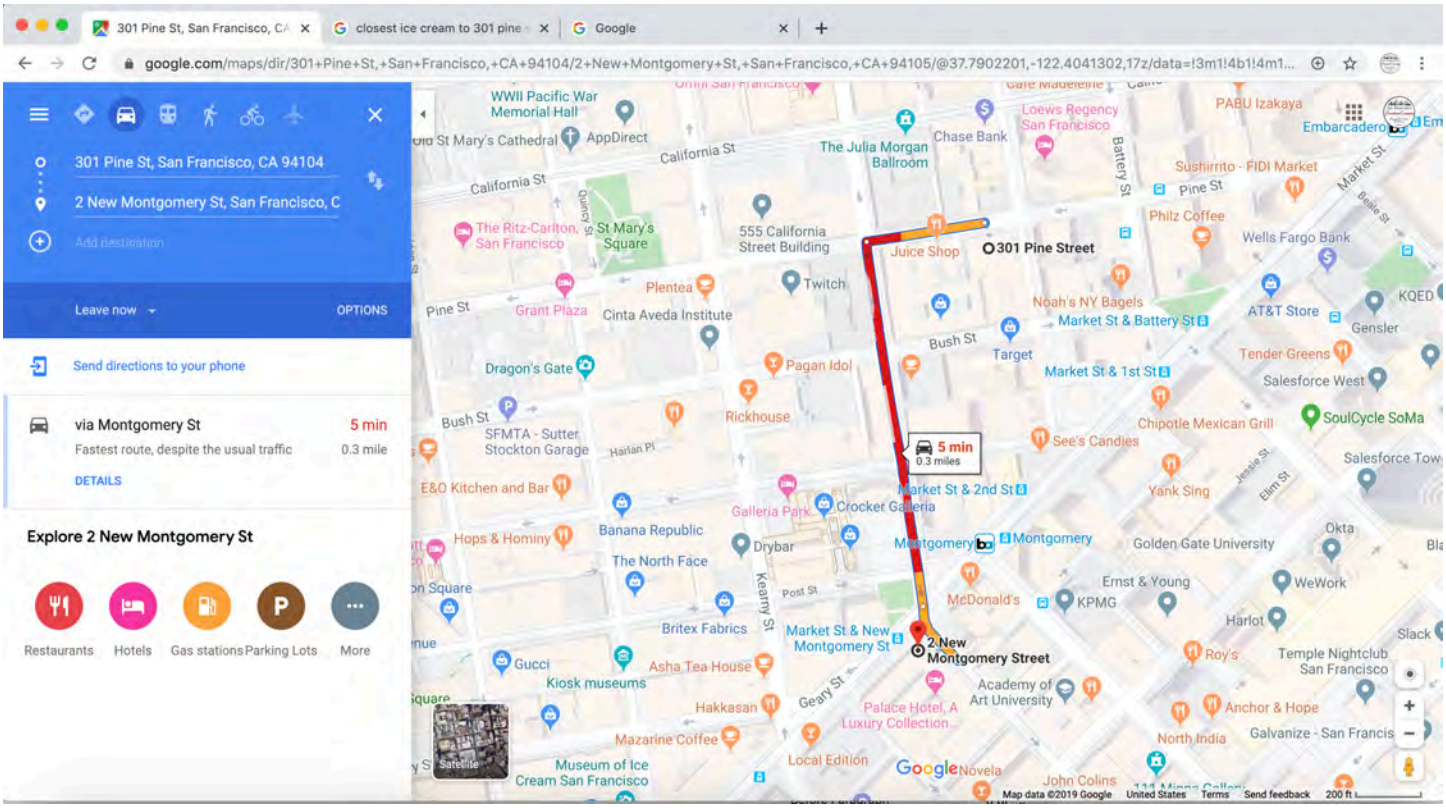
without first having obtained a permit from the Director of Public Works, accompanied by approval by the Director of Public Health and the Fire Marshal's Office.

A. The Permittee shall provide a minimum clear path of travel for pedestrians of no less than six (6) feet wide and an ADA compliant four (4) foot wide line for their customers.
    1. For any motorized vehicles, the minimum recommended sidewalk width shall be ten (10) feet.
    2. For pushcarts, the minimum recommended sidewalk width of a sidewalk shall be fifteen (15); and,
    3. A minimum two (2) foot clearance is required along the curbside for pushcarts operating adjacent to existing on-street parallel parking.
    4. The Permittee is prohibited from placing any freestanding A-frames, displays, signs, or any other obstruction within the public right-of-way, with the exception of a refuse collection receptacle.
B. The Permittee shall comply with the current Fire Code and guidelines including providing and maintaining minimum distances required for building access, exit egress, and access to SFFD protection services.
C. The Permittee shall not obstruct the use of any existing City facilities or previously permitted occupancy. All MFFs must maintain a minimum clearance of:
    1. Eight (8) feet from an Arts Commission approved Street Artist License (Maps are available online at http://www.sfartscommission.org/street_artists_program/maps/index.html)
    2. Five (5) feet from the angular return of any sidewalk, nor obstruct the use of any corner or mid-block accessible curb ramps
    3. Six (6) feet from existing street furniture including but not limited to parking meters, fire hydrants, pay phones, pedestrian signal crossings, fire alarms, news racks, kiosks, benches, bike racks, etc.
    4. Seven (7) feet from Fire Hydrants
    5. Twelve (12) feet from any delineated Bus Zone, or within a Blue Zone.
D. All applicable parking regulations shall be observed.
    1. The MFF shall comply with all existing color curb zones, as approved by SFMTA.
    2. The MFF shall occupy no more than the equivalent of two on street (2) parking spaces.
    3. The MFF shall provide service along curbside and not park against vehicular traffic.
    4. The MFF may not occupy the sidewalk adjacent to any on street perpendicular or diagonal parking. Food services may be provided within the sidewalk area, adjacent to the pedestrian through way zone.
E. No MFF or MFF Vendor shall peddle food or drinks in certain zoned areas throughout the City:
    1. In any residential ("R") district other than a residential-commercial combined ("RC") district as defined in the Planning Code;
    2. In any "P" districts, as defined in Section 234 of the Planning Code, that are located on Twin Peaks or in any areas in or adjacent to Open Space Districts located on Twin Peaks;

EXHIBIT 14

Hydrant to meter: 24’
MFF 14’ Length
Hydrant to MFF 10’

EXHIBIT 15


301 Pine St, San Francisco, CA
closest ice cream to 301 pine
Google
google.com/maps/dir/301+Pine+St,+San+Francisco,+CA+94104/2+New+Montgomery+St,+San+Francisco,+CA+94105/@37.7902201,-122.4041302,17z/data=!3m1!4b1!4m1...
301 Pine St, San Francisco, CA 94104
2 New Montgomery St, San Francisco, C
Add destination
Leave now
OPTIONS
Send directions to your phone
via Montgomery St
5 min
Fastest route, despite the usual traffic
0.3 mile
DETAILS
Explore 2 New Montgomery St
Restaurants
Hotels
Gas stations
Parking Lots
More
WWII Pacific War Memorial Hall
AppDirect
California St
The Julia Morgan Ballroom
Chase Bank
Loews Regency San Francisco
PABU Izakaya
Embarcadero
Sushirrito - FIDI Market
Market St
Pine St
Philz Coffee
Wells Fargo Bank
The Ritz-Carlton, San Francisco
St Mary's Square
555 California Street Building
Juice Shop
301 Pine Street
Twitch
Plentea
Grant Plaza
Cinta Aveda Institute
Noah's NY Bagels
Market St & Battery St
AT&T Store
KQED
Gensler
Bush St
Target
Tender Greens
Dragon's Gate
Pagan Idol
Market St & 1st St
Salesforce West
Rickhouse
Chipotle Mexican Grill
SoulCycle SoMa
SFMTA - Sutter Stockton Garage
5 min
0.3 miles
See's Candies
E&O Kitchen and Bar
Market St & 2nd St
Yank Sing
Galleria Park
Crocker Galleria
Banana Republic
Hops & Hominy
Drybar
Montgomery
Golden Gate University
Okta
The North Face
Kearny St
Post St
McDonald's
Ernst & Young
KPMG
WeWork
Britex Fabrics
Market St & New Montgomery St
2 New Montgomery Street
Harlot
Slack
Gucci
Asha Tea House
Roy's
Temple Nightclub San Francisco
Kiosk museums
Academy of Art University
Geary St
Hakkasan
Palace Hotel, A Luxury Collection...
Anchor & Hope
Mazarine Coffee
North India
Galvanize - San Francis
Local Edition
Museum of Ice Cream San Francisco
Novela
John Colins
Satellite
Map data ©2019 Google
United States
Terms
Send feedback
200 ft

BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)

BOARD OF APPEALS
NOV 14 2019
APPEAL # 19-110

SAN FRANCISCO PUBLIC WORKS

London N. Breed
Mayor

Mohammed Nuru
Director

Bernard Tse
Acting Manager

Street Use and Mapping
1155 Market St., 3rd floor
San Francisco, CA 94103
tel 415-554-5810

sfpublicworks.org
facebook.com/sfpublicworks
twitter.com/sfpublicworks

November 14th, 2019

President Rick Swig
Vice President Ann Lazarus
Commissioner Darryl Honda
Commissioner Rachael Tanner
Commissioner Eduardo Santacana

Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103

Re: Appeal No. 19-110 for San Francisco Public Works Mobile Food Facility Permit 18MFF-0113

Dear President Swig, Vice President Lazarus, and Commissioners Honda, Tanner, and Santacana:

San Francisco Public Works submits this response to The Empire Group's appeal of San Francisco Public Works' decision for Mobile Food Facility permit application # 18MFF-0113, issued to San Francisco's Hometown Creamery, at the following locations and during the following times of operation:

301 PINE ST - On the south side of Pine Street, approximately 35 feet west of the SW corner of the Pine Street and Sansome Street intersection, operating Monday from 11 am to 3 pm, Wednesday from 11 am to 3 pm, and Friday from 11 am to 3 pm

San Francisco Public Works first received the applicant's permit application (Exhibit A: Permit Application) on December 28th, 2018 for the two locations of 301 Pine Street and 2298 Post Street. After reviewing San Francisco's Hometown Creamery's proposed locations in accordance with Article 5.8 of the Public Works Code and Public Works Order 182,101, Public Works tentatively approved the site plans for the 301 Pine Street location to move forward based on the location criteria set forth in Section 184.85 of the Public Works Code. We also advised the applicant that their proposed 2298 Post Street location was not in compliance with the location criteria set forth in Section 184.85 of the Public Works Code as it was within 1,000 feet of the property line of a public high school. Accordingly, the applicant withdrew the 2298 Post Street location

from their application on March 20th, 2019 (Exhibit B: Post Street Withdrawal). Following approval of the 301 Pine Street site plan (Exhibit C: Pine Street Site Plan), Public Works sent a notice of intent (Exhibit D: Notice of Intent) as is required by Section 184.88 of the Public Works Code on April 10th, 2019. The applicant also posted a physical notice of intent at the location on April 16th, 2019, for which a picture was sent to Public Works (Exhibit E: Posted Notice of Intent). In response to the public notification, Public Works received ten (10) letters of support and two (2) letters of objection before the deadline of May 10th, 2019. Following a July 3rd, 2019 Public Works hearing, the Director of Public Works subsequently rendered a decision to conditionally approve the location at 301 Pine Street (Exhibit F: Director's Decision). The appellant has appealed Public Works' decision to approve permit 18MFF-0113 allowing San Francisco's Hometown Creamery to operate at 301 Pine Street.

San Francisco Public Works wishes to address the Appellant's arguments challenging the permit approval decision as follows:

A. *The proposed MFF location is within a 75-foot radius of the Earthbar Restaurant entrance*

Public Works Response:

While the appellant is correct that Public Works, pursuant to Public Works Order 182,101 (Exhibit G: Public Works Order), prohibits mobile food facilities within a 75-foot radius of the centerline of the primary entrance of any restaurant, and that Earthbar is considered a restaurant under San Francisco Public Health Code Section 451, Public Works exempts restaurants that do not have direct street access to their primary entrance pursuant to Public Works Order 182,101 Section III.E.9(c). Public Works does not consider the Pine Street entrance of 301 Pine Street to be a primary entrance to the Earthbar restaurant with direct street access. Generally Public Works considers a primary entrance of a restaurant, with direct street access, to be one that clearly labels the restaurant and transports customers directly from the public right-of-way to the

restaurant itself; in this case, the door has no labeling for Earthbar and the entrance leads only to a gymnasium check-in. Accessing Earthbar requires walking through the gymnasium check-in, turning and walking through a series of customer benches and gym apparel before being within the vicinity of the restaurant. Accordingly, Public Works did not consider this to be a *primary* entrance to the restaurant and therefore the application was allowed to move forward despite the proposed mobile food facility's proximity to the Earthbar restaurant.

The appellant also cited Public Works Order 182,101 Section III.E.10 which notes that if an active street-facing façade of a restaurant extends beyond 75 feet from its primary entrance, no Mobile caterer or MFF shall operate along the curb directly fronting any active street-facing façade and that a Mobile Caterer or MFF may not be parked within 50 feet of the active street facing façade. Because Public Works does not consider 301 Pine Street's Pine Street entrance to be a *primary* entrance to the restaurant, this provision of our Public Works Order does not constitute grounds for permit denial.

B. The Applicant did not follow all Department of Public Health requirements for a San Francisco MFF.

Public Works Response

While the appellant has noted that mobile food facilities are required to obtain a permit from the Department of Public Health (DPH) to operate in San Francisco, their permit is a standalone permit in that the Public Works permit can be approved without a fully approved DPH permit. That being said, however, the permit holder will of course be required to obtain a permit from DPH prior to operation; as such, the absence of a formal DPH approval does not affect Public Works' ability to issue a Public Works permit. This requirement is clearly noted as part of the permit conditions and Director's decision issued following the July 3rd, 2019 Public Works Director's Hearing. Public Works also routinely verifies the permit holder's up-to-date DPH credentials each year upon Public Works permit renewal.

As part of the DPH permit approval process, the owner of the mobile food facility business is required to declare under penalty of perjury that a restroom facility is available for use by themselves and their employees within a 200 foot radius of the mobile food facility. This restroom must have warm water, be maintained clean and sanitary, be stocked with paper towels and liquid hand soap, and shall meet these conditions at all times. The Department of Public Health, Environmental Health Branch must also be notified immediately if the agreement is terminated for any reason. While Public Works has communicated the restroom verification requirement to the applicant, and the applicant has confirmed to Public Works that they have a restroom secured that meets the requirements, Public Works does not verify DPH's form; rather, DPH verifies the Restroom Verification Form as part of their permit approval process. The Board of Appeals should not deny San Francisco's Hometown Creamery's Public Works permit (18MFF-0113) based on the requirements of a separate permit from a separate City department.

C. *The Applicant will not be able to reasonably manage a MFF in this location in accordance with the good neighbor policies outlined in the Public Works Code.*

Public Works Response

In response to the appellant's concerns regarding the permit holder being unable to meet the Good Neighbor Policies set forth within Section 184.94 of the Public Works Code, Public Works cannot speculatively assume that a permit holder is unable to meet the requirements of maintaining the quiet, safety, and cleanliness of the surrounding area. The applicant will be required to provide proper and adequate storage, and disposal of debris and garbage is explicitly permitted under Public Works Order 182,101 Section III.A(4) which allows the permittee to place a refuse collection receptacle on the sidewalk. Thus, the trash receptacle located at the corner of Pine Street and Sansome Street will not be the only refuse option available for mobile food facility customers. The permit holder will also have to provide a notice prominently displayed urging patrons to leave the Mobile Food Facility premises and neighborhood in a

quiet, peaceful, and orderly fashion and to please not litter or block driveways in the neighborhood. Finally, the Mobile Food Facility permit holder will be required to walk a 100-foot radius after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.

Ultimately, the appellant's claims regarding the Good Neighbor Policy are entirely speculative and denying a permit based off of what Public Works believes the permit holder could or could not do once they operate would set a dangerous precedent for our permit approval process. In the case of Philz, Public Works reviews each application on its own merits and cannot consider one operator's actions to speculatively assume another operator will do the same. All Public Works permits are revocable if the requirements of the permit are not met and permittees face civil and criminal penalties outlined in Section 184.98 of the Public Works Code for violations.

D. The proposed MFF location is not compliant with San Francisco Fire Department requirements

Public Works Response

While the appellant is correct that the distance from the fire hydrant to the beginning of the permittee's designated parking space is approximately 6' 7", the actual distance from the fire hydrant to the mobile food facility vehicle is significantly greater. Because the permit holder's mobile food facility is only 14' 9" for a parking space which is significantly larger, the permittee can very reasonably maintain a 8' 8" clearance from the fire hydrant as is indicated on their approved site plan.

E. There are many bricks and mortar eating establishments serving similar products in the near vicinity of the proposed MFF location

Public Works Response

Public Works cannot deny a Mobile Food Facility permit application based on the proximity of brick and mortar businesses as no such restrictions are set forth in Article 5.8 of the Public Works Code nor Public Works Order 182,101 other than the 75-foot radius requirement previously discussed. Because Public Works, during the course of our review, did not discover any restaurants whose primary entrances were within 75 feet of the proposed mobile food facility, Public Works—recognizing that the application otherwise met all requirements of Article 5.8 of the Public Works Code and Public Works Order 182,101—made the decision to approve the application.

Conclusion:

Ultimately, Public Works, having complied with the permit processing guidelines set forth in Public Works Code Article 5.8 and Public Works Order 182,101 and upon conclusion of a public hearing, has made its determination with Public Works Order No. 201,703 to approve San Francisco's Hometown Creamery's application to operate a mobile food facility at 301 Pine Street. Public Works respectfully recommends that the Board of Appeals uphold the Director's decision to approve San Francisco's Hometown Creamery's Mobile Food Facility permit 18MFF-0113.

Sincerely,

Debra Lutske
Deputy Bureau Manager
Bureau of Street-Use and Mapping, San Francisco Public Works

Exhibit A: Permit Application

APPLICATION FOR REVOCABLE MOBILE FOOD FACILITY PERMIT

London N. Breed
Mayor

Mohammed Nuru
Director

Jerry Sanguinetti
Manager

Street Use and Mapping
1155 Market St., 3rd floor
San Francisco, CA 94103
tel 415-554-5810

sfpublicworks.org
facebook.com/sfpublicworks
twitter.com/sfpublicworks

BSM PERMIT # 18MFF-0113

BUSINESS INFORMATION

Business / DBA Name: San Francisco's Hometown Creamery

Applicant Name: Hometown Creamery, Inc.
(If applicant is a corporation, list names and addresses of each officer, director and each stockholder owning more than 10% of stock of the corporation on a separate attachment.)

Mailing Address: 1290 9th Ave

City: San Francisco State: CA Zip: 94122

Phone: (831) 402-7802 E-Mail: adam@SFhometowncreamery.com

Commissary Address: 1290 9th Ave

City: San Francisco State: CA Zip: 94122

SF Business Certificate: 1013839 Driver's License: D3508570

FACILITY INFORMATION

Type of Facility: ☐ Push Cart ☒ Truck ☐ Truck/Trailer

Proposed Menu:

Ice Cream & Waffle Cones

PROPOSED LOCATION(S) & OPERATION INFORMATION

Location description shall include address and physical description (e.g. north side of 'A' Street, 100 feet east of 'B' Avenue). Provide a separate site plan and photo(s) for each location(s). *See 'Mobile Food Facility Sample Drawing.'*

Location 1 : 2298 Post St C NE corner at Post & Divisadero

Days of Operation: M ☐ T ☒ W ☒ TH ☒ F ☐ S ☐ SU ☐

Hours: 11 AM ☒ PM ☐ to 3 AM ☐ PM ☒

Location 2 : 301 Pine St

Days of Operation: M ☒ T ☐ W ☒ TH ☐ F ☒ S ☐ SU ☐

Hours: 11 AM ☒ PM ☐ to 3 AM ☐ PM ☒

Location 3 :

Days of Operation: M ☐ T ☐ W ☐ TH ☐ F ☐ S ☐ SU ☐

Hours: _____ AM ☐ PM ☐ to _____ AM ☐ PM ☐

Location 4:

Days of Operation: M ☐ T ☐ W ☐ TH ☐ F ☐ S ☐ SU ☐

Hours: _____ AM ☐ PM ☐ to _____ AM ☐ PM ☐

We encourage all applicants to submit plans by e-mail to MobileFood@sfdpw.org.

DEPARTMENT OF PUBLIC HEALTH (DPH) CLASSIFICATION
See DPH application for classification

Check One: ☐ MFF1 ☐ MFF2 ☐ MFF3 ■ MFF4 ☐ MFF5

CALIFORNIA DEPARTMENT OF MOTOR VEHICLE (DMV) REGISTRATION

Make/Model: Volks Wagon Westfalia License Plate #: 5DFJ199

Vehicle ID#: 23482092379

SUBMITTAL CHECKLIST

☐ Complete SF Public Works Application

☐ Two (2) Photographs of permit applicant(s) (Passport photo size or similar)

☐ Non-Refundable Fee (See Fee Schedule)
VISA, MasterCard, American Express, Check or Money Order made payable to SF Public Works

☐ Site Plan : Dimensioned footprint of mobile food facility, property lines, sidewalk widths, existing parking alignment, adjacent building(s) including all entrances/exits, fire protection services, existing sidewalk furniture (e.g. utility poles, fire hydrants, parking meters, etc.)

☐ **For Mobile Food Trucks:** 75-foot radius notification packet : Map, List, Addresses, Postage, Affidavit.

☐ **For Mobile Food Pushcarts:** 300-foot radius notification packet : Map, List, Addresses, Postage, Affidavit.

For required notification mailings:

- Envelopes will be provided by SF Public Works
- Applicant will be required to affix address labels and postage

FINAL APPROVAL CHECKLIST
Prior to final approval from Public Works, the applicant must provide the following:

☐ Current Department of Public Health (DPH) Certificate of Sanitation (public) and Decal

☐ Current San Francisco Fire Department (SFFD) Inspection Report and Decal

☐ Current San Francisco Business Registration Certificate

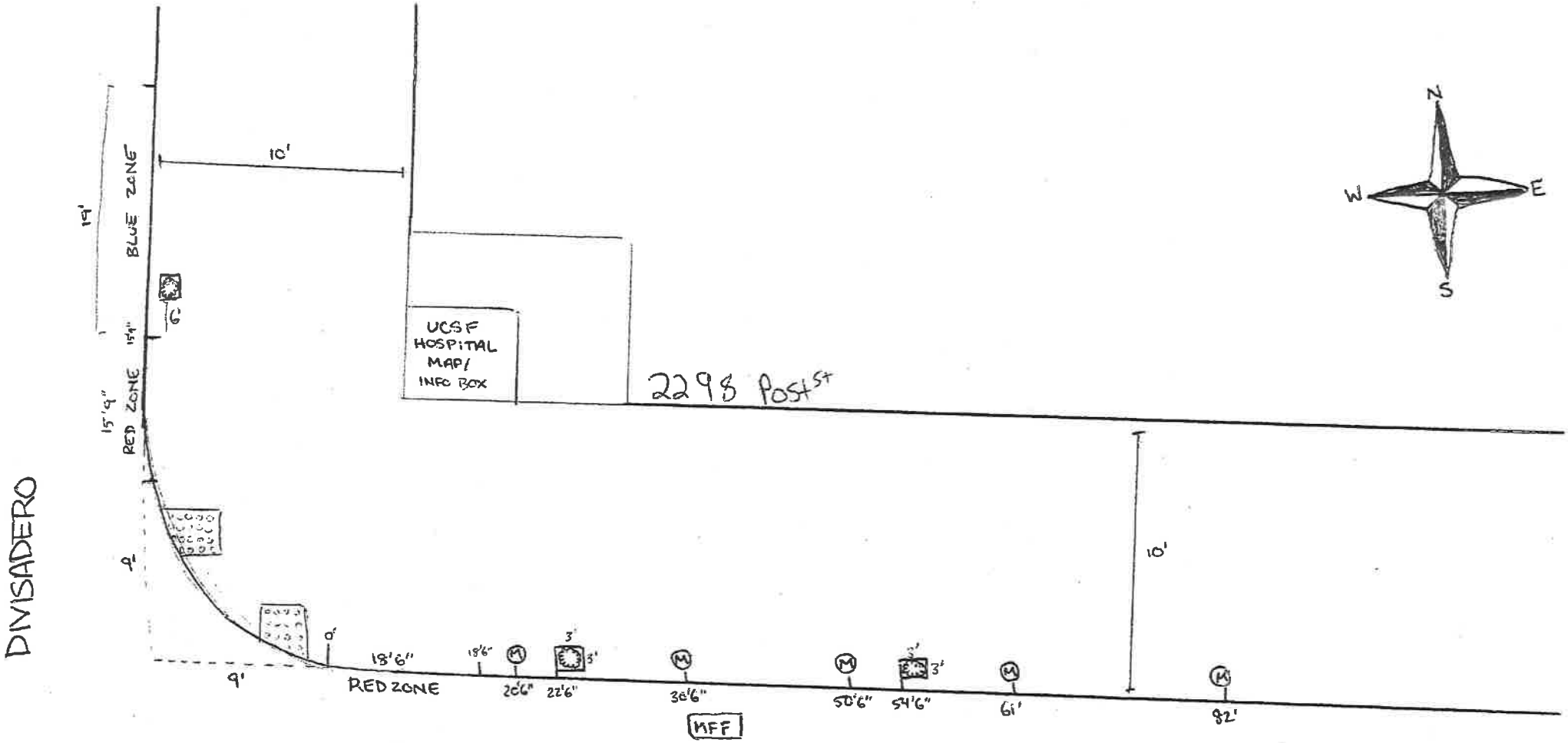
☐ California Department of Motor Vehicles (DMV) Vehicle Registration

Applicant understands and agrees to comply with all conditions noted on this application, the Public Works Code, Health & Safety and Fire Codes, DPW Order No. 179,044 and other local, state and federal laws governing mobile food facilities and accessibility as they may apply to this permit.

Signature of Applicant/Authorized Agent **Date** 12.28.18

Adas Halil
Print Name

We encourage all applicants to submit plans by e-mail to MobileFood@sfdpw.org.

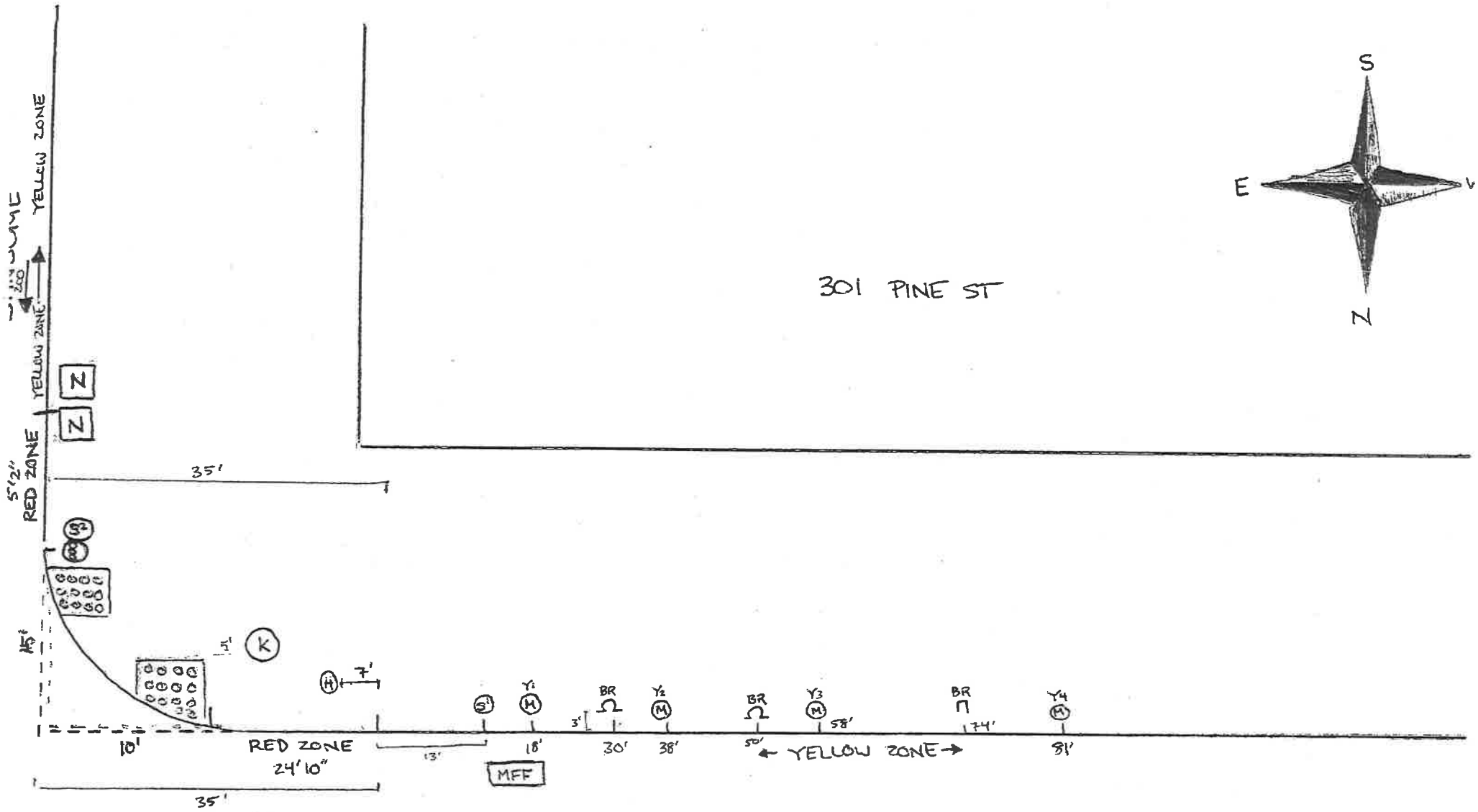


M - PARKING METER

▨ - TREE / PLANTER

* - NO PARKING ON NORTH SIDE OF POST ST. 6-8 AM THURSDAYS FOR STREET CLEANING

MFF 1978 VW WESTFALIA
ICE CREAM VAN
L: 14'9"
W: 5'9"



KEY/DESCRIPTIONS

- NEWS STAND
- STREET SIGN
- TRAFFIC LIGHT
- KIOSK/AD DISPLAY

S1 - NO STOPPING 3-7 PM EXC. SAT/SUN
NO PARKING 2-6 AM T/TH

S2 - NO LEFT TURN 7-8

Y1-4 M - YELLOW METER M-F 7-3 PM
SAT 7-? AM

300

PINE ST.

ONE WAY

Exhibit B: Post Street Withdrawal

Persky, Nicholas (DPW)

From: Adar Halil <adar@sfhometowncreamery.com>
Sent: Wednesday, March 20, 2019 1:19 PM
To: Persky, Nicholas (DPW)
Cc: Slocum, Gregory (DPW); Tse, Bernie (DPW)
Subject: Re: POST ST 2298 / PINE ST 301 - San Francisco's Hometown Creamery - 18MFF-0113 - Permit Application Review
Attachments: 301 Pines street location.jpg

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Good afternoon Nicholas,
Thank you for your expeditious follow up.

301 PINE STREET

I've attached to this email a revised diagram which includes the dimensions of our actual MFF in addition to providing more specifically where the MFF will be parked.

The MFF will be parked at the first meter going westbound on Pine from Sansome. The rear of the MFF will be 8 feet from the Fire Hydrant and the front of the MFF will be 15 feet from the bike rack. Even with a substantial amount of customer activity, the bike rack would still be accessible and it's functionality would not be hindered.

2298 Post Street

Thank you for brining this to my attention. I was unaware of Gateway High School's presence in the area. Given the less than 1,000 ft clearance, I will formally withdraw this location.

Please let me know if there is any more information you would like me to provide or any further elaboration would be helpful.

Thanks for your time,
Adar

On Tue, Mar 19, 2019 at 5:49 PM Persky, Nicholas (DPW) <nicholas.persky@sfdpw.org> wrote:

> Hello Adar,
>
> I have been assigned to review your Mobile Food Facility Application, 18MFF-0113, for San Francisco's Hometown Creamery at 2298 Post Street and 301 Pine Street. In reviewing your application, I have come across some issues that will need to be rectified in order to proceed with the approval process. Please provide the information requested below so that I can continue reviewing your application.

Exhibit C: Pine Street Site Plan

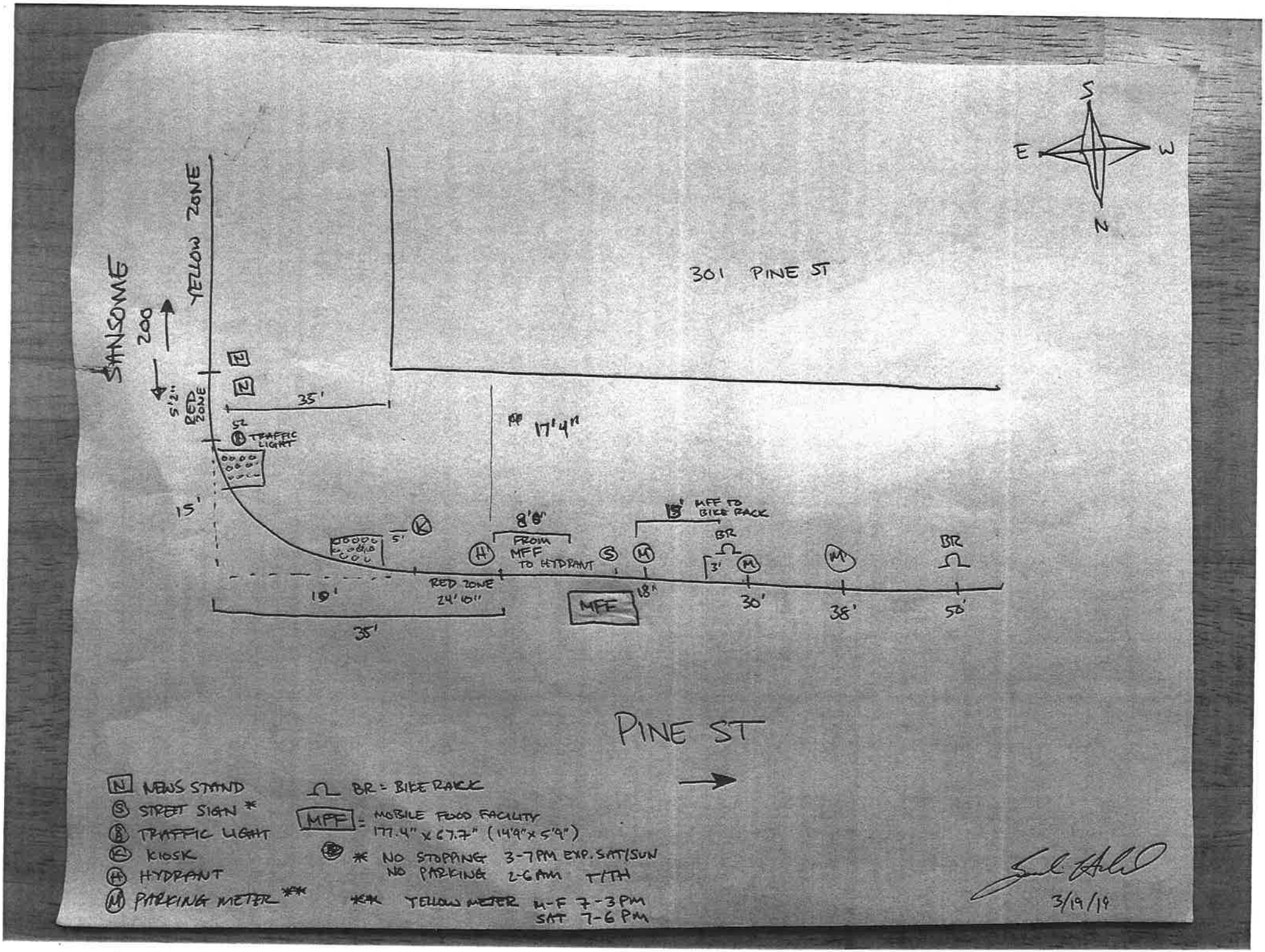

S
E
W
N
301 PINE ST
SANSOME
200
YELLOW ZONE
5'2"
RED ZONE
35'
TRAFFIC LIGHT
17'4"
15'
8'8"
FROM MFF TO HYDRANT
5' MFF TO BIKE RACK
BR
3'
5'
RED ZONE 24'10"
19'
18'
30'
35'
50'
35'
MFF
PINE ST
N NEWS STAND
S STREET SIGN *
TL TRAFFIC LIGHT
K KIOSK
H HYDRANT
M PARKING METER **
BR = BIKE RACK
MFF = MOBILE FOOD FACILITY 177.4" x 67.7" (14'9" x 5'9")
* NO STOPPING 3-7PM EXP. SAT/SUN
NO PARKING 2-6AM T/TH
** YELLOW METER M-F 7-3PM
SAT 7-6PM
3/19/19

Exhibit D: Notice of Intent

City and County of San Francisco
San Francisco Public Works · Bureau of Street Use and Mapping
1155 Market Street, 3rd Floor · San Francisco, CA 94103
sfpublicworks.org · tel 415-554-5810 · fax 415-554-6161

Notice of Intent for a Mobile Food Facility Permit # 18MFF-0113

This Notice of Intent is given pursuant to DPW Code Article 5.8 and DPW Order No. 182,101, approved. The Director of Public Works has received a request to occupy a portion of the public right-of-way for the purpose of operating a Mobile Food Facility. Mobile Food Facilities encourage the use and vitality of San Francisco's neighborhoods. The vitality of our streetscapes directly benefits the economic activity for all commercial interests in the San Francisco.

THE APPLICANT San Francisco's Hometown Creamery HAS REQUESTED A PERMIT TO OPERATE A MOBILE FOOD FACILITY IN THE PUBLIC RIGHT- OF-WAY AT:

Items to be sold:

Location and Food	Day Of Week	Start time	End time
301 PINE ST	Monday	11AM	3PM
On the south side of Pine Street, approximately 35 feet west of the SW corner of the Pine St and Sansome St intersection -- Ice cream & Waffle cones			
301 PINE ST	Wednesday	11AM	3PM
On the south side of Pine Street, approximately 35 feet west of the SW corner of the Pine St and Sansome St intersection -- Ice cream & Waffle cones			
301 PINE ST	Friday	11AM	3PM
On the south side of Pine Street, approximately 35 feet west of the SW corner of the Pine St and Sansome St intersection -- Ice cream & Waffle cones			

San Francisco's Hometown Creamery Telephone #: 831-402-7802

Plan Checkers Initials: NP

For more information please call the Bureau of Street-Use and Mapping at (415) 554-5810.

Notice of Intent Date: 04/10/2019

Final day for a public protest: 5/10/2019

Any interested party may request additional information, submit letters of support or objection online at http://bsm.sfdpw.org. Click on "Comment on Permit" and enter "18MFF-0113" . Written letters may be submitted by mail directly to Department of Public Works, Bureau of Street-Use & Mapping, 1155 Market St, 3rd floor, San Francisco, CA 94103, Attention: Mobile Food. All comments and envelopes must be received or postmarked no later than 5PM on 5/10/2019.

Exhibit E: Posted Notice of Intent

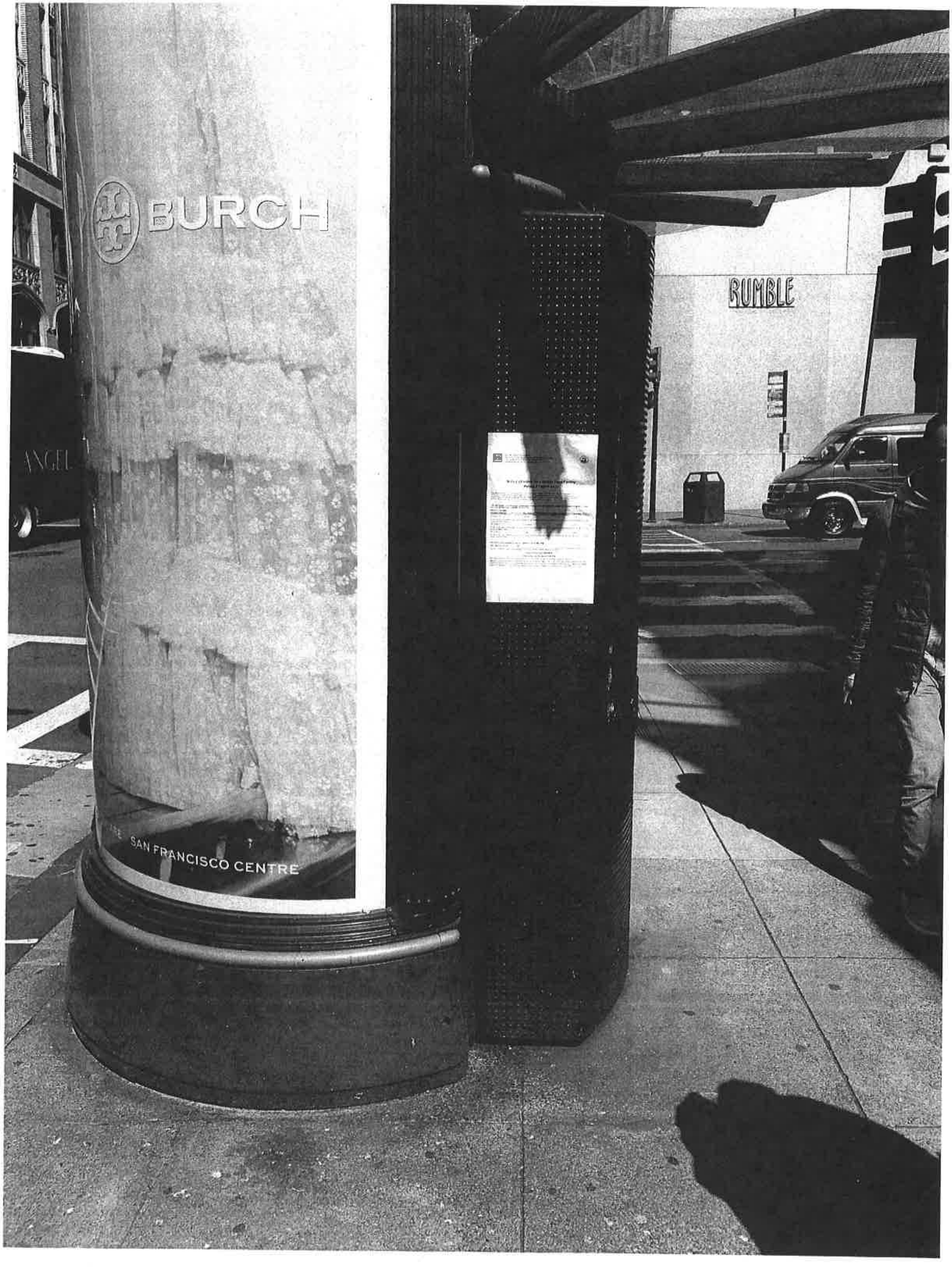

BURCH
RUMBLE
SAN FRANCISCO CENTRE

Exhibit F: Director's Decision

DocuSign Envelope ID: 8B16A4DA-9632-48D4-BF51-3BD1255A31A1

City and County of San Francisco

London N. Breed, Mayor
Mohammed Nuru, Director

San Francisco Public Works

GENERAL - DIRECTOR'S OFFICE
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place, S.F., CA 94102
(415) 554-6920 ■ www.SFPublicWorks.org

Public Works Order No: 201703

DIRECTOR'S DECISION FOR MOBILE FOOD FACILITY PERMIT NO. 18MFF-0113 AT THE FOLLOWING LOCATION:

APPLICANT: San Francisco's Hometown Creamery

DESCRIPTION OF REQUEST: Mobile Food Facility Permit; Truck

LOCATION:

- 301 PINE ST - On the south side of Pine Street, approximately 35 feet west of the SW corner of the Pine Street and Sansome Street intersection, operating Monday from 11 am to 3 pm, Wednesday from 11 am to 3 pm, and Friday from 11 am to 3 pm.

BACKGROUND:

1. The applicant filed an application with San Francisco Public Works (Public Works) for a Mobile Food Facility (MFF) permit on December 28th, 2018.

2. After determining the locations listed above met the general location requirements of Article 5.8 of the Public Works Code and after receiving the required notification material from the applicant, Public Works mailed the Notice of Intent in accordance with Public Works Code Article 5.8, Section 184.85 and Public Works Order No. 182101 on April 10th, 2019.

3. The 301 Pine St location received two (2) objections within the thirty (30) day allotted period for public comment.

4. Subsequently, Public Works scheduled a public hearing for July 3rd, 2019 to consider the objections to the proposed location.

5. Hearing Officer, Boris Deunert, conducted the hearing on July 3rd, 2019 to consider testimony regarding the proposed location.

6. At the time of the hearing Public Works had received ten (10) unique letters of support and two (2) letters of opposition. At the hearing two (2) of the opponents, who had already written letters, spoke. Reasons for protests included:

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a. Many existing brick and mortar restaurants already in the area.
b. Negatively affects fronting business.
c. Increase congestion in the area.
d. Increased litter in surrounding area.

7. The owner and operator of the Mobile Food Facility addressed some of the comments. They argued that they had done exhaustive research on this particular location. They attested that there are no ice cream shops nearby and that their business would not affect existing brick and mortar restaurants. A trash receptacle would be placed next to the truck and trash pickup would happen at the beginning and end of each day of operation.

8. Upon hearing the above testimony and reviewing the application, reports, plans, and other documents contained in the Public Works files, the Hearing Officer informed the attendees that he will make his recommendation to the Director following the hearing.

RECOMMENDATION: CONDITIONAL APPROVAL of Permit to operate a mobile food facility at the subject location within the specified days and times per the following conditions and findings:

CONDITION OF APPROVAL: The Permittee has ninety (90) days from the date shown on the issued permit to secure all additional relevant approvals and/or permits from other City agencies to make the aforementioned permit mentioned operational. Failure to obtain these required approvals and/or permits within this time period shall result in the permit being automatically disapproved and revoked.

CONDITION 1: Pending final approval, the applicant shall pay all required fees, provide a copy of the approved DMV Registration, SF Business Registration Certificate, and a certificate of insurance showing coverage that meets City Requirements.

APPROVAL FINDING 1: The application complies with the requirements set forth in Public Works Code Article 5.8 and DPW Order 182,101 at the time of application.

APPROVAL FINDING 2: Objections and testimony brought forward are already addressed in the operational requirements for obtaining the permit through Public Works. The permit is revocable and civil and criminal penalties apply for violations.

APPROVAL FINDING 3: The Permit Holder is required to comply with the "Good Neighbor Policies" set forth in Public Works Code Article 5.8, Section 184.94 which includes requirements to maintain the safety and cleanliness adjacent to the proposed location.

APPROVAL FINDING 4: Overall health compliance is reviewed by the Department of Public Health (DPH), and the Public Works Permit for operation is contingent upon an approved DPH Permit.

APPROVAL FINDING 5: The permit holder is required to obtain approvals from the

DocuSign Envelope ID: 8B16A4DA-9632-48D4-BF51-3BD1255A31A1

Department of Public Health and the San Francisco Fire Department prior to beginning operation.

APPEAL PROCESS: Any interested person may appeal this decision to the Board of Appeals within fifteen (15) calendar days of the date of the Public Works Director's signature on this DPW Order. For further information regarding the appeal process, please contact the Board of Appeals in person at 1650 Mission Street, Suite 304, or call 415-575-6880.

X DocuSigned by: Lutske, Debra
C332FDEE221447C...
Lutske, Debra
Deputy Bureau Manager

X DocuSigned by: John Thomas
B3944D53BAFD487...
Thomas, John
Deputy Director & City Engineer

X DocuSigned by: Nuru, Mohammed
81145AB17F474FA...
Nuru, Mohammed
Director

Exhibit G: Public Works Order

City and County of San Francisco

San Francisco Department of Public Works
Office of the Deputy Director & City Engineer, Fuad Sweiss
Bureau of Street-Use & Mapping
1155 Market Street, 3rd Floor
San Francisco Ca 94103
(415) 554-5810 ■ www.sfdpw.org

Edwin M. Lee, Mayor
Mohammed Nuru, Director

Jerry Sanguinetti, Bureau Manager

DPW Order No: 182101

ADOPTING GUIDELINES FOR THE ISSUANCE OF PERMITS, AND FOR INSPECTION AND ENFORCEMENT OF MOBILE FOOD FACILITIES OPERATING WITHIN PUBLIC RIGHTS-OF-WAY, EFFECTIVE JULY 28, 2013.

I. PURPOSE. Ordinance No. 119-13, approved July 28, 2013, amending Article 5.8 of the Public Works Code (PWC) , to address various location and notification requirements and approving additional requirements concerning mobile food facilities (MFF) operating within the public right-of-way. This Department of Public Works (DPW) Order provides detailed implementation guidelines and supersedes DPW Order 179,044, approved February 25, 2011.

II. DEFINITION OF A MOBILE FOOD FACILITY

A. Mobile Caterer: Any motorized vehicle from where wrapped food, foodstuffs, products, liquids, materials intended, or any other food or drink for human consumption are sold, served, distributed, or offered for sale at retail or provided at no cost to the public.
B. Mobile Food Facility (MFF): Any vehicle or pushcart used in conjunction with a commissary or other permanent food facility from where food is sold or distributed at retail value. A MFF does not include a "Transporter" used to transport packaged food from a food facility or other approved source to the consumer. A MFF also does not include any use that sells goods, wares, or merchandise other than food or drink intended for human consumption.
C. Push Cart: Any wagon, cart, or any other food-servicing device, whether stationary or mobile, from where any food or foodstuffs are sold, served, distributed, offered for sale at retail, or provided at no cost to the public, whether consumed at said pushcart or elsewhere.
D. Cold Truck: Any vehicle with a previously approved route number by the San Francisco Police Department (SFPD).

III. ALLOWABLE LOCATIONS AND HOURS OF OPERATION It shall be unlawful for any person, firm or corporation to operate a Mobile Caterer, Mobile Food Facility, Push Cart or Cold Truck within the public right-of-way, in the City and County of San Francisco,

without first having obtained a permit from the Director of Public Works, accompanied by approval by the Director of Public Health and the Fire Marshal's Office.

A. The Permittee shall provide a minimum clear path of travel for pedestrians of no less than six (6) feet wide and an ADA compliant four (4) foot wide line for their customers.
    1. For any motorized vehicles, the minimum recommended sidewalk width shall be ten (10) feet.
    2. For pushcarts, the minimum recommended sidewalk width of a sidewalk shall be fifteen (15); and,
    3. A minimum two (2) foot clearance is required along the curbside for pushcarts operating adjacent to existing on-street parallel parking.
    4. The Permittee is prohibited from placing any freestanding A-frames, displays, signs, or any other obstruction within the public right-of-way, with the exception of a refuse collection receptacle.

B. The Permittee shall comply with the current Fire Code and guidelines including providing and maintaining minimum distances required for building access, exit egress, and access to SFFD protection services.

C. The Permittee shall not obstruct the use of any existing City facilities or previously permitted occupancy. All MFFs must maintain a minimum clearance of:
    1. Eight (8) feet from an Arts Commission approved Street Artist License (Maps are available online at http://www.sfartscommission.org/street_artists_program/maps/index.html)
    2. Five (5) feet from the angular return of any sidewalk, nor obstruct the use of any corner or mid-block accessible curb ramps
    3. Six (6) feet from existing street furniture including but not limited to parking meters, fire hydrants, pay phones, pedestrian signal crossings, fire alarms, news racks, kiosks, benches, bike racks, etc.
    4. Seven (7) feet from Fire Hydrants
    5. Twelve (12) feet from any delineated Bus Zone, or within a Blue Zone.

D. All applicable parking regulations shall be observed.
    1. The MFF shall comply with all existing color curb zones, as approved by SFMTA.
    2. The MFF shall occupy no more than the equivalent of two on street (2) parking spaces.
    3. The MFF shall provide service along curbside and not park against vehicular traffic.
    4. The MFF may not occupy the sidewalk adjacent to any on street perpendicular or diagonal parking. Food services may be provided within the sidewalk area, adjacent to the pedestrian through way zone.

E. No MFF or MFF Vendor shall peddle food or drinks in certain zoned areas throughout the City:
    1. In any residential ("R") district other than a residential-commercial combined ("RC") district as defined in the Planning Code;
    2. In any "P" districts, as defined in Section 234 of the Planning Code, that are located on Twin Peaks or in any areas in or adjacent to Open Space Districts located on Twin Peaks;

3. On the sidewalk or street immediately adjacent to property under the jurisdiction of the Recreation and Park, Commission other than the areas specified above, unless written consent is obtained from the General Manager of the Recreation and Park Department.
4. On the sidewalk or street under the jurisdiction of Caltrans e.g. Van Ness Avenue, 19th Avenue, etc. unless written consent from State of California District 04 is first obtained.
5. No occupancy is allowed within SFMTA's AT&T Park restricted streets from two (2) hours before until two (2) hours after events, unless written consent from SFMTA is first obtained.
6. On the north side of Jefferson Street between Jones and Taylor Streets.
7. Within 500 feet of the property lines of any public middle schools or junior high schools between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday.
8. Within 1,000 feet of the property line of any public high school between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. This clearance may be within 750 feet for the following public schools: John O'Connell, Mission High School, Hilltop High School, Galileo High School, International Studies Academy, Principal's Center, Civic Center High School.
9. Within a 75-foot radius of any restaurant as measured from the centerline of the primary entrance to the restaurant. The restaurant shall be operational at the time the MFF applies for a permit for the subject location.
    a. A restaurant is defined under Public Health Code Section 451 and includes: fast food and take-out establishments.
    b. If the restaurant provides any food product and marketing uses as defined in Public Health Code Section 440, then it shall not fall under the definition of a restaurant, as it applies to this Code and guidelines.
    c. The 75-foot radius requirement shall apply only if the restaurant has direct street access to it primary entrance.
10. If the active street-facing façade of a restaurant extends beyond 75 feet from its primary entrance, no Mobile Caterer or MFF shall operate along the curb directly fronting any active street-facing façade. A Mobile Caterer or MFF may not be parked within fifty (50) feet of the active street facing façade
11. Notwithstanding the location requirements, if a Pushcart Peddler has a valid permit for a specific location dated July 19, 1995 or earlier, said pushcart is exempt from this Section's location requirements and the Director may issue an exception as long as the permitted path of travel satisfies minimum applicable Federal and State accessibility requirements.

F. Hours of Operation. Subject to the notification requirements described in this Order, hours of operation shall be limited to 6 A.M. to 3 A.M., the following day. No MFF or MFF Vendor shall peddle between the hours of 3:00 A.M. and 6:00 A.M., unless the Director has approved such sales after consulting with the Planning Department and the Chief of Police.

G. MFFs shall be limited to providing service and sales at one location for no more than three (3) days per week. Such days shall be measured in 24-hour cycles so that they may begin on one day and extend to the following day so long as the subject cycle does not constitute more than 24 consecutive hours at a single location.

IV. PERMIT APPLICATION REQUIREMENTS DPW shall process all completed permit applications strictly in the order in which they are submitted to DPW. A completed permit application shall include all required materials specified in this Order and in PWC Article 5.8.

A. Maximum Number of Permits for a Single Permittee. In no case shall a single Permittee obtain more than seven (7) separate MFF permits; except if a Pushcart Peddler Permittee has 7 or more valid permits dated prior to July 19, 1995, then the previously issued permits shall not count towards this new maximum threshold of 7 permits per Permittee. DPW shall issue a separate permit for each MFF; provided, however, that the DPW Director may issue a written waiver to this requirement if multiple vendors share a MFF. If such a waiver is granted, the DPW Director may impose additional conditions and additional fees pursuant to Public Works Code Section 2.1.3.

1. Single Permit for a Location with Multiple MFFs. The Director may issue a single permit or permits to an assigned location(s) for multiple MFFs. The fees for such permit shall be the same as filing, notification, and inspection fees for a single location. Under such circumstances, the Director of Public Works (Director) may also charge additional permit fees as set forth in Section 2.1.3 of the PWC for any additional time and material costs that the City incurs in processing such permits. All MFFs operating under a single location permit shall comply with all other provisions of this Article and Order.
2. Multiple MFF Permits for a Single Location during the Same Time Period. The Director, at his or her discretion, may issue two (2) or more MFF permits for a single location during the same time period; provided, however, that in no case shall an additional permit be issued unless the Director determines that the location site conditions can accommodate the associated activity without adversely impacting pedestrian path of travel and/or flow or other location requirements. Applicants applying for a MFF permit where an existing MFF permit is currently occupying the public right-of-way must note on their application the size of the unit, its location, owner, menu, and operational hours. The mailing list for notification shall also include the existing MFF owner as part of the notification process.

B. Application. Requests to operate a MFF within the public right-of-way shall include the following on a form provided by DPW:

1. The name, business and residence address of the applicant, and the address where the mobile catering vehicle will be stored during non-operating hours. The address to which notice, when required, is to be sent or mailed, and the name and address of a person authorized to accept service or process, if not otherwise stated on this application.
2. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and residence addresses of each of the officers, directors and each stockholder owning more than 10 percent of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant shall apply. A natural person shall not acquire a stock interest in more than one

corporate Permittee. The application shall specify whether the applicant intends to operate a MFF under a fictitious name.

3. A photograph of the permit applicant, e.g., passport photo, driver's license, or similar.
4. A description of the food products and/or drink(s) the applicant intends to sell; although no Permittee shall be bound by or limited to this description.
5. The specific location(s) of the activity, including a detailed description of where the applicant intends to place his or her MFF. Locations for the purposes of this permit shall be defined as a fixed point or a defined route including approximate duration at specific fixed points and approximate time of day at specific fixed points along the route.
6. The proposed hours and days of operation for each location that the MFF proposes to serve.
7. A description of the Mobile Catering Vehicle, including the following data: The make, model and type of body; the number of cylinders; the vehicle identification number or any other identifying number as may be required by the Director. *(If this information is not known at the time of permit application, this requirement may be satisfied as a condition of obtaining a final and effective permit).*
8. Information pertinent to the operation of the proposed activity, including information as to management and authority control, as may be required by the Director, Director of Public Health, or Fire Marshal.
9. A statement from the applicant whether the application is for a new permit, renewal of an existing permit, a change to the location that the MFF serves, a change in hours of operation, or the addition of location(s).

C. Notice of Intent

1. Following the filing of an application for a new MFF permit, change of location for an existing permit, change in hours of operation to include service after 8 P.M., or addition of a location(s), DPW shall mail a Notice of Intent to operate the proposed MFF business at the location(s) identified in the application. The form for said Notice shall be provided to each applicant by DPW. Said Notice shall include the location(s) the MFF intends to serve, the days of the week and times for service at each location, a description of the goods/products to be sold under the permit, the procedure for obtaining any additional information, and the procedure for filing any protest or opposition to the proposed permit. The applicant shall also provide DPW with a list of all required recipients of the mailed Notice and stamped envelopes with the addresses of all such individuals for the purpose of providing mailed notice. Notice shall be provided as follows:
    a. If the MFF proposes to operate between the hours of 6 A.M. and 8 P.M., mailed notice shall be sent to all ground floor commercial tenants and any neighborhood organization on the Planning Department list, developed pursuant to the Planning Code
    b. If the MFF proposes to operate at any location between the hours of 8 P.M. and 3 A.M., the following day, the mailed Notice shall also be provided to all property owners, residential tenants, ground floor

commercial tenants, and any neighborhood organization on the Planning Department list, developed pursuant to the Planning Code

c. For each physical building address, the Notice also shall be mailed to the attention of "Building Owner/Manager" at that address, and to the address of record for the property owner, if different.

d. If the MFF is a Mobile Caterer

i. Notice shall be given to all buildings within a 75-foot radius from the outer perimeter of the proposed location(s) to be served. A Mobile Caterer shall be assumed to occupy 20 linear feet of curbside space. The 75-foot radius shall be measured from the outer boundaries of this assumed curbside area. Notice also shall be provided to all properties across the street that directly front, in whole or in part, the Noticed Area. Notice also shall be posted on a City-owned utility pole or other City facility closest to the proposed Mobile Caterer's proposed Location for at least 10 calendar days prior to the end date to either file an objection with DPW, or to request a Departmental hearing. The applicant shall photograph the posted notice, including a date stamp, and submit such photograph to DPW. This photograph shall satisfy the posting requirement under this Article and Order.

ii. If the MFF is a Pushcart, Notice shall be given within a 300 foot radius of the boundaries of the street address(s) fronting the proposed location of the Pushcart. If there is no street address, the Notice shall be given within a 300 foot radius of the boundaries of the Assessor's Block(s) and Lot(s) fronting the proposed location of the Pushcart.

D. Notice of Hearing. Any person or persons who feel(s) that their interests or property or that of the general public will be adversely affected by the issuance, denial, or conditioning of the MFF Permit at its intended location may protest the proposed issuance or denial of said permit or permit conditions by writing to the Director within thirty (30) calendar days from the date listed on the Notice of Intent. Upon receipt of any such written protest during the term of the appeal period, the Director will schedule a public hearing to hear testimony from all persons interested in the tentative permit decision.

1. Not less than ten (10) days prior to the date of a Departmental hearing, the Director shall cause to be published a notice of such hearing in the official newspaper of the City and County of San Francisco. The cost of publishing said notice and any additional mailed notice shall be borne by the MFF Permit applicant. The Notice shall contain the following information: the name and business address of the applicant, the product or products to be sold, the location(s) of the proposed sales activity(ies), the days and hours of operation, and whether the application is for a new permit, for a change of an existing permit, or for an addition of a new location(s).

E. Decisions.

1. At the hearing, the Director, or his/her designee, acting as an Administrative Hearing Officer, may consider the following
    a. Whether the applicant's proposed location is within a 75-foot radius of a restaurant or if the location is currently being operated by an already approved/existing MFF.
    b. Whether three (3) or more MFFs are currently permitted for overlapping times on either side of the street within the same block.
    c. Other information deemed relevant to the determination of whether the proposed location would generate any public safety or other concern that may impact the general public and/or the public rights-of-way.
    d. Whether the sidewalk width at the proposed location is less than ten (10) or fifteen (15) feet wide depending upon the food facility (Mobile Caterer or Pushcart).
    e. Whether substantiated evidence exists to refute assertions in the application for the MFF.
2. If an Administrative Hearing Officer conducts the hearing, such officer shall make a recommendation concerning the proposed permit to the Director, who, in his /her discretion, may disapprove, approve, or conditionally approve the proposed permit.

F. Issuance.
    1. The Director may issue a MFF permit within fourteen (14) days if no hearing is requested pursuant to this Article, if he or she finds:
        a. That the operation, as proposed by the applicant, would comply with all applicable laws, including but not limited to, the provisions of this Article, Order and/or the San Francisco Municipal Code.
        b. That the applicant has not made any false, misleading or fraudulent statements of facts in the permit application or any other document required by the Director or the Director of Public Health, in conjunction with their application and/or request.
    2. The Director may issue a MFF permit within 14 days following a Departmental hearing as provided herein, based on his/her investigation and the investigation of the Director of Public Health, if he /she makes the findings specified above
    3. Any MFF Permit that the Director issues shall be conditioned on the MFF Vendor obtaining a Certificate of Sanitation for the Department of Public Health and approval from the Fire Marshal. If the Certificate of Sanitation and Fire Marshal approval are not obtained within three (3) months of the date the Director issues his /her permit decision, the permit shall be automatically revoked.

G. Appeals. The Director's decision is appealable to the Board of Appeals within fifteen (15) calendar days of the date of DPW's final decision.

H. Renewals. Permits are renewed annually so long as the MFF remains in compliance with all applicable Codes and regulations, including but not limited to payment of all fees due to the City. Renewal of the permit will not require a public notice, unless the Permittee is changing the location that the MFF serves, adding a new location(s), requesting to extend their hours of operation to serve a location later than 8 P.M., or making other changes to the MFF that the Director determines requires public notice.

I. Transfers. No permit shall be transferable except with the written consent of the Director, with the approval of the Director of Public Health. Such consent and approval shall not be unreasonably withheld. The application for such transfer shall contain the same information as specified within this Order for an initial application for such a permit, and shall be accompanied by the same filing and inspection fees as for an initial application. Any MFF Permit issued on or before July 1, 2013, shall comply with all applicable provisions of this Article; provided, however, that no notice is required for a transfer. Upon approval of said transfer, the transferee shall retain the original permit approval date and all of the transferor's rights.

J. Expirations.
   1. A permit shall be set to expire seven (7) years from the anniversary of the original permit issuance date as long as the Permittee remains in compliance to this Article and Order, with all aspects of their operation. If the Permittee elects to pursue a new permit, six (6) months prior to such expiration, the existing Permittee may apply for a new permit under the same terms as the existing permit and shall be given priority over all other applicants.
   2. If a Permittee for a MFF has a valid permit for a specific location approved on or before July 1, 2013, then said Permittee is exempt from the above expiration clause, provided that the Permittee complies with all other applicable terms of this Article and Order. As part of any permit issuance, renewal, or transfer pursuant to this Article, DPW shall include reference to the original approval date of the MFF permit.

V. SINGLE DAY PERMITS. A MFF that otherwise meets all of the location requirements, has a San Francisco Business Registration Certificate, an active Certificate of Sanitation from the Department of Public Health and all necessary approvals from the Fire Marshal, shall be eligible to obtain single day Temporary Occupancy Permits for a location under Section 724 of the PWC, provided that:

A. The Permittee shall not vend, exchange cash or complete a credit transaction for food in the public right-of-way.
B. The Permittee shall obtain written authorization from the fronting property owner or property manager.
C. The Permittee shall submit a Certificate of Insurance for general liability coverage of not less than $1 million, endorsing the *City and County of San Francisco* as additional insured with the Bureau's address as the certificate holder.
D. Tow-Away and no-stopping signs are not issued by DPW, MTA does not acknowledge the tow-away/no stopping construction zone signs for single day permits from a Mobile Food Facility. The applicant shall contact MTA for the purchase and placement of special event/tow-away signs after acquiring a single day permit from DPW.

VI. FEES shall be charged based on the following criteria:

A. Submittal Fees
   1. Every person desiring a MFF Permit pursuant to this Article shall file an application with the Director upon a form provided by DPW, as described in Paragraph IV of this Order, accompanied by a filing fee, a notification fee, and an inspection fee for a single MFF location.

2. Each additional location shall require additional payment to DPW.
3. Half of the required fees for a single location and half of the fees for any additional location(s) may be paid at the time of submittal of the application, with the balance fee paid at the time of the Director's decision on the permit.
4. Every Permittee desiring to change the location of an already approved MFF, modify the hours of operation to allow service after 8 P.M., or add a new location(s) during the term of the annual permit, shall file an application with DPW, shall pay an additional filing fee for each alternate location or new location(s), a notification fee per location, and an inspection fee per location. Such requests shall be processed in the same manner as a new application request.
5. No refunds shall be considered or provided if DPW disapproves a permit or a permit location.
6. Separate fees shall be paid to the Department of Public Health (DPH) and the San Francisco Fire Department (SFFD) for plan check and annual inspections/approvals, as required, in order to obtain a valid permit. For the convenience of the applicant, DPW may collect these fees and will forward them to the respective Department. The Controller may adjust this fee annually as set forth in Section 249.1(c) of the Business and Tax Regulations Code.
7. Proof of these payments in the form of written authorizations or decals is requested, but not required at the time of applying for a MFF Permit. However, in no case shall DPW's Permit be deemed final and effective until the applicant obtains such authorizations or decals. The applicant shall have up to three (3) months after DPW conditionally approves the Permit to obtain such authorizations or decals. The applicant's failure to obtain such authorizations or decals by the end of this 3-month term shall result in Permit being deemed disapproved.

B. Annual Renewal Fee
1. Every MFF Permit is subject to an annual renewal DPW filing fee.
2. In addition, if during the course of the preceding year, if DPW receives one (1) or more substantiated complaints against the Permittee and/or permit location(s), or if DPW issued one (1) or more Notice of Violation against the Permit, DPW shall assess an additional processing fee.
3. Where substantiated complaints were received and/or Notices of Violation were issued, DPW shall also assess additional inspection fees.

C. Annual Adjustment. All DPW, DPH, and SFFD fees listed herein may be subject to annual adjustment or may be modified through action of the Board of Supervisors. At the beginning of the City's fiscal year (July 1) or at any other time that fee amounts are modified, DPW will post an updated fee schedule with current fee amounts.

VII. OPERATIONAL REQUIREMENTS

A. Coordination
1. Identification Card. The Director shall issue an identification card to each Permittee. The identification card must be in the possession of the operator at all times during operating hours of the mobile catering vehicle.

2. Each Mobile Food Facility Vendor or Mobile Food Facility employee shall produce the Mobile Food Facility permit, a valid San Francisco Business Registration Certificate from the Office of the Treasurer and Tax Collector, a valid Certificate of Sanitation, an identification card, a description of the approved Location(s) and hours of operation for a Mobile Food Facility, and all other documents required so that the Location of the Mobile Food Facility may be checked and verified upon demand by any Police Officer, the Director, the Director of Public Health, or the Fire Marshal.
    a. The Permittee shall affix a DPH Certification of Sanitation Decal to a pushcart in a prominent location and shall affix the Certification of Sanitation to the lower right-hand corner of the windshield for any Mobile Catering vehicle.
    b. The Permittee shall affix a DPW approved and issued decal to the lower left-hand bumper of any Mobile Catering vehicle.
    c. Permittees operating a MFF shall also have the following documentation visible to the public during their operation hours: MFF Permit, a valid San Francisco Business Registration Certificate, a valid DPH Certification of Sanitation Decal, an identification card, a current SFFD inspection decal, a description of the approved locations, and approved hours of operation.
3. If the San Francisco Municipal Transportation Agency (SFMTA) authorizes use of a no parking sign for MFFs, a MFF Vendor may display such sign(s) at the location of the MFF subject to any SFMTA rules and regulations for posting of such signs

B. Conflicts
1. No permit shall be required if any City Department issues a valid permit for occupancy of the subject location for street fairs, farmers markets, temporary use, or other permitted activities as long as the MFF has a current and valid Certificate of Sanitation and Fire Marshal approval.
2. The Director of Public Works may temporarily suspend an approved permit if any City Department issues a permit for occupancy of the approved location for street fairs, farmers markets, temporary use, street or building construction, or other permitted activities;
    a. At the Permittee's request, the Director may, but is not required, to authorize a temporary relocation of a MFF;
    b. The Director's authorization for the temporary relocation shall be in writing and available at the MFF for review by City officials;
3. No additional permit shall be required for said temporary relocation provided that the MFF has a current and approved Certificate of Sanitation from DPH and approval from the Fire Marshal.

C. Suspension or Revocation.
1. The Director may suspend or revoke a permit if he/she determines that the public interest necessitates use of the Mobile Food Facility Location for a different public purpose, such as a bicycle lane, traffic reconfiguration, bulb-out, bus stop, or other pedestrian, bicycle, vehicular safety measure consistent with City policies.

2. The Director may suspend or revoke for good cause any permit or any permit location which has been issued pursuant to this Article, if he or she finds, after a noticed public hearing, that the Permittee has engaged in or been found guilty of any of the following acts:
    a. Fraud, misrepresentation, or false statement contained in the permit application.
    b. Violation of provisions of State law regarding MFF, the State Vehicle Code, this Article and Order, San Francisco Municipal Code, and/or a determination by the Director of Public Health and/or Fire Marshal or their designee, related to the operation of any MFF operated by this Permittee.
    c. Any violations occurring as specified herein for another MFF Permit issued to the same Permittee.
    d. The MFF Vendor is operating in a manner that negatively impacts the public's health, safety, convenience, and/or welfare.
    e. The MFF Vendor habitually violates the Good Neighbor Policies set forth in Section 184.94 of the PWC.
    f. The MFF has not operated in the permitted location for a period of six (6) months or more.
    g. The Director of Public Health or his/her designee may also revoke a Certificate of Sanitation if he/she finds that the Permittee has violated the Public Health Code or State law regarding MFF uses. The Fire Marshal or his/ her designee may also revoke a SFFD Permit and Inspection Decal if he/ she finds that the Permittee has violated the Fire Code or State law regarding MFF uses. These revocations may be in addition to, or separate from any action enforced by the Director.
3. If the Director determines that the Permittee has exceeded the scope of the permit, either in terms of duration or area, or violates any other of the permit terms or conditions, the Director shall order the Permittee to correct the violation within a specified time period, to be determined based on the violation(s). If any person occupies the public right-of-way without a permit, the Director shall immediately order the violator to vacate the occupied area.
4. Failure to appear for the annual renewal shall be deemed a violation and may be cause for suspension or revocation of the permit.
5. Failure to pay any fee assessed under these provisions shall constitute good cause for immediate revocation of the permit and/or removal of unpermitted obstructions.

D. Penalties.
1. Criminal Penalties - any person who violates any of the provisions of this Article and Order shall be guilty of an infraction at each location where such violation occurs. Each violation determined to be an infraction shall be subject to a fine.
2. Civil Penalties. The Director may call upon the City Attorney's Office to initiate an action for injunction to restrain, summary abatement to cause the correction or abatement of the violation of this Article, and for assessment and recovery of a civil penalty with reasonable attorney's fees to be assessed for such violation.

3. Administrative Penalties. The Permittee may be subject to administrative citations if they are found to be in violation of any of the provisions and/or guidelines of this Article and/or Order.
    a. The administrative citation shall not exceed $1000 per day for each violation;
    b. If the violation is not corrected as ordered by City officials, the Permittee shall be subject to an additional penalty fee of up to $5,000 per day for each violation;
    c. The above penalties shall be assessed, enforced and collected in accordance with Section 39-1 of the Police Code.

E. Removal of MFF.
1. The Director is authorized to order the immediate removal of a MFF if the MFF has no permit and/or when, in his/her opinion, , the MFF constitutes a safety hazard or public nuisance, or when the presence of an emergency requires immediate removal of the MFF. After notification by the Director to remove the MFF, the Permittee shall immediately remove or cause to be removed the MFF from the street area by its owner. If the owner does not remove the MFF immediately, the Director may order DPW to remove the MFF. The owner shall pay the City all costs for removal and storage of the MFF. No MFF shall be placed at the subject location until the conditions which have caused the removal order shall have been abated to the satisfaction of the Director.
2. The Director is authorized to remove, or cause to be removed, any MFF placed in a street or sidewalk area in violation of any other provision of this Article and/or Order. The Permittee/Pushcart owner shall commence removal no earlier than 48 hours after notice is given describing the violation(s). The notice shall be both mailed to the pushcart owner and posted in a conspicuous manner on the MFF, and shall contain the following:
    a. The permit condition(s) violated,
    b. The date/time of posting the violation notice,
    c. The location of the MFF,
    d. The identity of the person issuing the notice of violation(s),
    e. A statement giving notice of 48 hours to remedy the violation(s).
3. MFFs that have been removed may be recovered within ninety (90) days from the date of seizure, and upon payment of a sum equal to the cost of removing and storing said MFF including a 20 percent surcharge for administrative costs as determined by DPW, as well as any additional costs incurred by DPW in disposing of any materials or merchandise contained in the MFF. Costs incurred as a result of removal under this Section are in addition to any fines or penalties incurred under Section 184.96 of the PWC.

VIII. <u>GOOD NEIGHBOR POLICY.</u> The Permittee shall manage their MFF with in accordance with the following good neighbor policies:

A. The Permittee shall maintain the quiet, safety and cleanliness of the approved MFF location(s);
B. The Permittee shall provide adequate storage and disposal of debris and garbage; Noise and odors shall be contained within immediate area of the MFF location so as not to be a nuisance to neighbors;

C. The Permittee shall prominently post and/or display a notice urging patrons to leave the MFF premises and neighborhood in a quiet, peaceful and orderly fashion and to please not litter or block driveways in the neighborhood;

D. Employees of the MFF shall walk a 100-foot radius from the approved MFF location within thirty (30) minutes after close of business and shall pick up and dispose of any discarded beverage containers or other trash left by patrons.

IX. HOLD HARMLESS CLAUSE The following language is hereby incorporated into all MFF Permits:

A. In consideration of this Permit being issued for the work described herein, the Permittee on its behalf and that of any successor or assign, and on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, ordinances and regulations.

B. The Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including without limitation, attorneys' fees and costs (collectively "claims") of any kind allegedly arising directly or indirectly from (i) any act by, omission by or negligence of, Permittee or its subcontractors, or the officers, agents, or employees of either while engaged in the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facilities, or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, goodwill, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause or claims arising at any time, and (iv) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Permittee in, under, on or about the property subject to this Permit or into the environment. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety to the environment.

C. The Permittee must hold harmless, indemnify and defend the City regardless of the alleged negligence of the City or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the City. The Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend

the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. The Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.

D. The Permittee shall obtain and maintain through the terms of this Permit general liability, automobile liability or workers' compensation insurance as the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any operations under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit, with complete copies of policies furnished promptly upon City request.

E. The Permittee and any permitted successor or assign recognize and understand that this Permit may create a possessory interest.

1/17/2014

X

Sanguinetti, Jerry
Bureau Manager

1/19/2014

X

Sweiss, Fuad
Deputy Director and City Engineer

1/22/2014

X Mohammed Nuru

Nuru, Mohammed
Director, DPW

PUBLIC COMMENT

FILE

MD 11/20/19

Mejia, Xiomara (BOA)

From: Erik Thomsen <ejt.cph@gmail.com>
Sent: Sunday, November 3, 2019 10:20 AM
To: BoardofAppeals (PAB)
Subject: 19-110 , 1301 Pine Str

BOARD OF APPEALS
NOV 04 2019
APPEAL # 19-110

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

As owner of 2140 Hyde St. unit 204 and 304 I am in opposition to the proposed outdoor eating facility. I think there is enough iss on the streets of San Francisco.

Best Regards,

Erik J. Thomsen
ejt.cph@gmail.com
+1.415.246.3992
100 Harbor Drive, Unit 3603
San Diego, CA 92101

Mejia, Xiomara (BOA)

BOARD OF APPEALS

NOV 14 2019

APPEAL # 19-110

From: Gwenn Stroman <gwennstroman@gmail.com>
Sent: Thursday, November 14, 2019 3:04 PM
To: BoardofAppeals (PAB)
Subject: Opposition to Proposed Permit 18MMF-0113

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Board Members,
As someone who works in the neighborhood of 301 Pine Street, I want to object to the issuing of a permit to an Ice Cream Truck at 301 Pine.
This is in clear violation of code, as it is within 75 feet of the front door of the existing food service establishment Earthbar. Why wouldn't you put them across the street where they won't be in violation? There is already a food truck there, that is seemingly not a problem - this makes much more sense.
Thank you for your time and attention,

Gwenn Stroman

Mejia, Xiomara (BOA)

BOARD OF APPEALS
NOV 14 2019
APPEAL # 19-110

From: Brian Reed <brian@brihospitality.com>
Sent: Thursday, November 14, 2019 2:28 PM
To: BoardofAppeals (PAB)
Cc: Brian Reed
Subject: 18MMF-0113 Appeal Opposition

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Ladies and Gentlemen:

I do not agree with the proposed MMF Ice Cream Tr5uck being allowed to operate at their proposed location on the South side of Pine street in front of 301 Pine for the following reason:

1. The proposed permit is within 75' of the front door of the Earthbar (not allowed per code)
2. The truck is unfair interference and competition to an established food service establishment - Earthbar
3. The truck will create uncontrolled garbage and congestion on sidewalk, and not follow the "good neighbor" provisions of code
4. The proposed permit does not have the required wash station/restroom requirement per code
5. They can move the truck directly across Pine street behind the Burrito truck instead of in front of 301 Pine.
6. I do not have issues with the location across the street.

Thank you for hearing my apposition to this location.

Brian L. Reed Principal

Bri Hospitality ::
Management and Consulting
155 Sansome Street, Suite 555, San Francisco, CA 94104
C 415 637 6729

Mejia, Xiomara (BOA)

From: Christine Lam <clam@levelmgmtllc.com>
Sent: Thursday, November 14, 2019 2:38 PM
To: BoardofAppeals (PAB)
Subject: Permit 18MMF-0113 at 301 Pine Street

BOARD OF APPEALS
NOV 14 2019
APPEAL # 19-119

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To Whom It May Concern,

I would like to register my protest of the proposed food truck under Permit 18MMF-0113 at 301 Pine Street. This food truck detracts from and causes disruption to the businesses and food services already located in the area, as well as increases congestion, littering, and hygiene problems.

Thanks,
Christine Lam
Level Management, LLC
(415) 850-8201
clam@levelmgmtllc.com

LEVEL
Management, LLC

Mejia, Xiomara (BOA)

From: Mike Faustino <mike@earthbar.com>

Sent: Thursday, November 14, 2019 1:26 PM
To: BoardofAppeals (PAB)
Cc: Nader Garschi; Bob Lustig
Subject: In Protest of Appeal 19-110

BOARD OF APPEALS
NOV 14 2019
APPEAL # 19-110

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To Whom It May Concern,

I am writing in regards to Appeal 19-110 that affects the businesses located at 301 Pine Street. Many points have been raised as to why the allowance of a food truck will be detrimental to pre-existing businesses however a few other concerns are:

a) The proposed permit is within 75' of the front door of Earthbar, there is direct street access at the entrance on 301 Pine St. (SEC 184.85)

b) The truck will create uncontrolled garbage and congestion on the sidewalk, and the general noise and odors generated will be a nuisance to our business and will not follow the provisions set forth in the Good Neighbor Policies. (SEC 184.94)

c) The proposed permit does not have any required wash station/restroom equipment.

d) The truck can move directly across Pine Street behind the pre-existing Burrito Truck instead of directly in front of 301 Pine, and our food establishment.

Best,
Mike Faustino

Mejia, Xiomara (BOA)

BOARD OF APPEALS

NOV 14 2019

APPEAL # 19-110

From: Nader Garschi <nader@earthbar.com>
Sent: Thursday, November 14, 2019 3:41 PM
To: BoardofAppeals (PAB)
Subject: Appeal 19-110 hearing November 20, 2019 for the Ice Cream Truck proposed permit 18MMF-0113 at 301 Pine.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Ladies and Gentlemen:

I do not agree with the proposed MMF Ice Cream Tr5uck being allowed to operate at their proposed location on the South side of Pine street in front of 301 Pine for the following reason:

1. The proposed permit is within 75' of the front door of the Earthbar (not allowed per code)
2. The truck is unfair interference and competition to an established food service establishment - Earthbar
3. The truck will create uncontrolled garbage and congestion on sidewalk, and not follow the "good neighbor" provisions of code
4. The proposed permit does not have the required wash station/restroom requirement per code
5. They can move the truck directly across Pine street behind the Burrito truck instead of in front of 301 Pine.
6. I do not have issues with the location across the street.

Thank you for hearing my apposition to this location
Nader
Sent from my iPhone

Mejia, Xiomara (BOA)

From: Elizabeth McMahon <EMcMahon@theempiregroup.com>
Sent: Thursday, November 14, 2019 3:41 PM
To: BoardofAppeals (PAB)
Subject: Permit #18MMF-0113 - Appeal #19-110

BOARD OF APPEALS
NOV 14 2019
APPEAL # 19-110

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

On behalf of the ownership of 301 Pine Street, San Francisco I strongly object to the above referenced proposed permit for an Ice Cream truck at 301 Pine Street.

My objection is based on the following information:

- Proposed Permit is within 75' of the front door of Earthbar;
- The truck would represent an unfair interference and competition to Earthbar – an established food service;
- The permit does not have required wash station/restroom access;
- The truck will create uncontrolled garbage and sidewalk congestion at this busy intersection.

Elizabeth McMahon
ASSET MANAGER
THE EMPIRE GROUP
155 Sansome Street, Ste. 850
San Francisco, Ca 94104

(415) 362-5000

Mejia, Xiomara (BOA)

BOARD OF APPEALS

NOV 14 2019

APPEAL # 19-110

From: Sherri Nordwall <snordwall@theempiregroup.com>
Sent: Thursday, November 14, 2019 3:26 PM
To: BoardofAppeals (PAB)
Subject: Ice Cream Truck Permit at 301 Pine

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

I am writing to voice my concern over Appeal No. 19-110. There is already significant difficulty at the S/W corner of Sansome and with garbage without any food trucks located there. There was once a Philz truck at the location and not only did it contribute to the problem, but the lines made it difficult for pedestrians to pass unimpeded on what is a very busy pedestrian intersection. Please do not allow food truck permits at this location.

Thank you,
Sherri L. Nordwall
THE EMPIRE GROUP
155 Sansome St., #850
San Francisco, CA 94104
Tel: (415)362-5000
Fax: (415)362-1039
snordwall@theempiregroup.com

Mejia, Xiomara (BOA)

From: Victoria Welch <Victoria.Welch@CityClubSF.com>
Sent: Thursday, November 14, 2019 3:49 PM
To: BoardofAppeals (PAB)
Subject: 18MMF-0113 Appeal Opposition

BOARD OF APPEALS
NOV 14 2019
APPEAL # 19-110

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To Whom it May Concern:

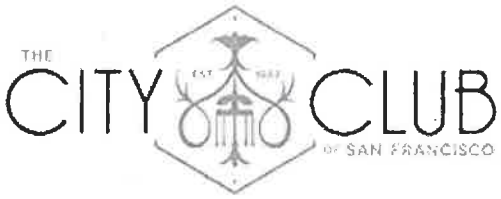
I oppose the proposed MMF ice cream truck to be allowed to conduct business at the proposed location, in front of 301 Pine Street, for the following reasons:

- The proposed permit is within 75' of the front door of a restaurant, Earthbar, which is not allowed per code
- The truck is unfair interference and competition to an established food service establishment, Earthbar
- The truck will create uncontrolled garbage and congestion on the sidewalk, and will not follow the "good neighbor" provisions of the code
- The proposed permit does not have the required wash station and restroom requirement per the code

As an alternative, please consider that they move the ice cream truck across the street behind or in front of the burrito mobile food truck, as opposed to in front of 301 Pine Street due to the violations of code listed above.

Thank you,
Victoria

Victoria Welch, Club Director
155 Sansome Street, 10th Floor | San Francisco, CA 94104
P 415.362.2480 ext 214



Mejia, Xiomara (BOA)

BOARD OF APPEALS
NOV 15 2019
APPEAL # 19-110

From: Thea Delaney <thea.delaney@gmail.com>
Sent: Thursday, November 14, 2019 5:00 PM
To: BoardofAppeals (PAB)
Subject: Appeal No. 19-110; 301 Pine Street

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To Whom it may concern,

I object to Mobile Food Facility Permit No. 18MMF-0113 at 301 Pine St., as I work in the building and the sidewalk garbage and congestion of pedestrian traffic is not controlled and the sidewalk thoroughfare becomes an obstacle. The surrounding sidewalks are often full of garbage produced by the patrons of the food truck facility, and when the trash receptacles are full (usually by mid morning), the trash, utensils and paper or other items produced by the food truck facility are strewn on the ground, adding to the obstacle.

Thank you,
Thea
--
Thea Delaney