

November 26, 2025

Board of Appeals:

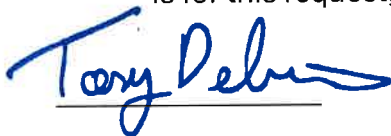
I am writing to request a rehearing of Appeal No. 25-036 at 1942 & 1960 Folsom Street concerning a Letter of Determination (Record No. 2025-005253ZAD) issued on August 19, 2025 by the Planning Department's Zoning Administrator (ZA) that concluded that outdoor flying of autonomous aerial delivery systems ("drones") is a Laboratory Use under the San Francisco Planning Code. Appeal No. 25-036 was heard at the Board of Appeals on November 19, 2025 and a bare quorum of the Board of Appeals denied our appeal. This request for rehearing is based on two additional facts and circumstances which known at the time could have affected the outcome of the November 19, 2025 hearing:

1. While the Board of Appeals typically has five (5) members, due to Board vacancy the Board of Appeals currently has only four (4) members. Additionally, there was one (1) Board of Appeal member absent at the appeal hearing on November 19, 2025. This resulted in several cancelled agenda items due to a Board of Appeal member absence and another Board of Appeal member conflict. For Appeal No. 25-036, only three (3) members were present when the matter was heard on November 19, 2025. While the three (3) members voted against the appeal, due to the novel nature of the question presented we believe it is a manifest injustice that this matter was not heard in front of a fully seated Board of Appeals with five (5) members. In fact, had we known of the absence of the member at the Board of Appeals hearing on November 19, 2025, we would have requested a continuance of the matter.

2. At the hearing of November 19, 2025 there was considerable testimony about the exact nature of the alleged “Laboratory” use, yet neither the ZA nor the Board of Appeals members ever elicited from the Applicant the precise percentage of the proposed use that will be held outside of the existing facility: Specifically, how much of the alleged “Laboratory” use simply is the flying of drones above the property? As a result, this line of testimony and questioning by Board of Appeals members failed to demonstrate that the described activity is a “Laboratory” use. For example, if 90% of the activity is the actual flying of drones over the property would that still be a “Laboratory” use? The Applicant conceded in its brief (Page 6) that the PDR-1-G does place some limit on the amount of outdoor “testing” and stated that “...the second-most permissive zone, PDR-1-G, allows for activities between these ends of the continuum. The ZA has discretion to determine that intermittent and limited duration outdoor testing falls within this range.” Yet, at the November 19, 2025 Board hearing, neither the Applicant nor the ZA would go on record about how much outdoor drone flying is allowed for the use to remain considered a “Laboratory” use and how much outdoor drone flying (as a percentage of overall use) would place the activity not within the “Laboratory” definition. Logically, if there is a limit on the amount of outdoor “testing” for a use to remain permitted under the Planning Code definition of “Laboratory” use within the PDR-1-G, then the ZA must articulate what that limit is. What if the Applicant just simply flies drones outside as 100% of the use? The failure to include a limit on outdoor testing sets a precedent and one can imagine that if a company was proposing to test a novel trash removal system by testing out its

equipment through burning trash in the 1960 Folsom parking lot as 100% of the proposed “Laboratory” use, the ZA might have a different interpretation of how much outdoor activity is allowed. This example demonstrates that there must be a limit on outdoor activity and because the Applicant, the Board of Appeals and the ZA never explored this question or established this limit, as far as we know the Applicant can use the 1960 Folsom property for 100% flying of drones outdoors and still be considered a “Laboratory” use. This cannot be so.

We respectfully request a rehearing of this matter. Please let me know what the fee is for this request, and I will ensure it is paid promptly.

A handwritten signature in blue ink, reading "Tony Delorio", with a horizontal line underneath the name.

Mr. Tony Delorio

San Francisco, CA