

**BOARD OF APPEALS**

**CITY & COUNTY OF SAN FRANCISCO**

**AGENDA FOR REGULAR MEETING - WEDNESDAY, NOVEMBER 10, 2021**

**5:00 P.M., REMOTE MEETING VIA ZOOM**

**THE PUBLIC MAY JOIN THE MEETING BY COMPUTER OR TELEPHONE:**

**Access by Computer:**

**<https://us02web.zoom.us/j/82493763719>**

**Access by Telephone:**

**Call: 1 669 900 6833**

**Webinar ID: 824 9376 3719**

**(1) PUBLIC COMMENT**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. At the discretion of the Board President, public comment may be limited to two minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

**(2) COMMISSIONER COMMENTS & QUESTIONS**

**(3) ADOPTION OF MINUTES**

Discussion and possible adoption of the October 27, 2021 minutes.

**(4) APPEAL NO. 21-087**

JEAN MONT-ETON, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION, Respondent  
PLANNING DEPT. APPROVAL

4341 Ulloa Street.

Appealing the ISSUANCE on August 19, 2021, to Prem Singh, of an Alteration Permit (Amendment to PA 2016/1121/3200: change rear stair deck location per plans).

PERMIT NO. 2019/1104/6312.

FOR FURTHER CONSIDERATION.

**Note: On October 27, 2021, upon motion by Commissioner Lazarus, the Board voted 4-0-1 (President Honda absent) to continue this Item to November 10, 2021 so that the parties can discuss their options and, if a resolution is achieved, plans can be submitted to the Board for review.**

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**(5) APPEAL NO. 21-094**

LEANA PEREZ and FRANCISCO ARMAS, Appellant(s)  vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	3421-3423-3425 20th Street. Appealing the ISSUANCE on September 3, 2021, to Biana Chernoguz 1997 Revocable Trust, of an Alteration Permit (Units 3421, 3423, 3425: Relocate kitchen and convert pantry into bathroom, and kitchen into bedroom on all three units; window replacement on 2nd, 3 <sup>rd</sup> & 4th floors in kind; front windows replaced in kind with wood Ogee and True dividers). PERMIT NO. 2021/03/31/7623. FOR HEARING TODAY.
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**(6) APPEAL NO. 21-093**

ALL NITE PIZZA, Appellant(s)  vs.  DEPT. OF PUBLIC HEALTH, Respondent	5155 3rd Street. Appealing the SUSPENSION on September 2, 2021, of All Nite Pizza's Retail Tobacco Permit (suspension for 20 days due to illegal sale of flavored tobacco products at the Establishment). PERMIT NO. T-76812 (DPH Hearing Case No. SMK-21-01). FOR HEARING TODAY.
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**ITEMS (7A), (7B), (7C), (7D) & (7E) SHALL BE HEARD TOGETHER**

**(7A) APPEAL NO. 21-081**

JOSHUA KLIPP, Appellant(s)  vs.  SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent	100 Larkin Street (Grove & Hyde Street frontages). Appealing the ISSUANCE on August 9, 2021 of a Public Works Order (approval for the Bureau of Urban Forestry to remove 17 Ficus street trees with replacement; each of the trees falls within at least one of the conditions warranting removal set forth in Order # 183151: Tree Removal Criteria for Ficus Trees; additionally, great weight is given to the tree failure which occurred May 29, 2021 and the posting of another tree for emergency removal as evidence of a public safety risk). ORDER NO. 205288. FOR HEARING TODAY.
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**(7B) APPEAL NO. 21-082**

<p>BETTY TRAYNOR, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>100 Larkin Street (Grove &amp; Hyde Street frontages).</p> <p>Appealing the ISSUANCE on August 9, 2021 of a Public Works Order (approval for the Bureau of Urban Forestry to remove 17 Ficus street trees with replacement along the Grove Street and Hyde Street frontages of the subject property; each of the trees falls within at least one of the conditions warranting removal set forth in Order # 183151: Tree Removal Criteria for Ficus Trees; additionally, great weight is given to the tree failure which occurred May 29, 2021 and the posting of another tree for emergency removal as evidence of a public safety risk).</p> <p>ORDER NO. 205288. FOR HEARING TODAY.</p>
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**(7C) APPEAL NO. 21-083**

<p>DEETJE BOLER, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>100 Larkin Street (Grove &amp; Hyde Street frontages).</p> <p>Appealing the ISSUANCE on August 9, 2021 of a Public Works Order (approval for the Bureau of Urban Forestry to remove 17 Ficus street trees with replacement along the Grove Street and Hyde Street frontages of the subject property; each of the trees falls within at least one of the conditions warranting removal set forth in Order # 183151: Tree Removal Criteria for Ficus Trees; additionally, great weight is given to the tree failure which occurred May 29, 2021 and the posting of another tree for emergency removal as evidence of a public safety risk).</p> <p>ORDER NO. 205288. FOR HEARING TODAY.</p>
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**(7D) APPEAL NO. 21-084**

<p>KASEY ASBERRY, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>100 Larkin Street (Grove &amp; Hyde Street frontages).</p> <p>Appealing the ISSUANCE on August 9, 2021 of a Public Works Order (approval for the Bureau of Urban Forestry to remove 17 Ficus street trees with replacement along the Grove Street and Hyde Street frontages of the subject property; each of the trees falls within at least one of the conditions warranting removal set forth in Order # 183151: Tree Removal Criteria for Ficus Trees; additionally, great weight is given to the tree failure which occurred May 29, 2021 and the posting of another tree for emergency removal as evidence of a public safety risk).</p> <p>ORDER NO. 205288. FOR HEARING TODAY.</p>
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**(7E) APPEAL NO. 21-085**

<p>LANCE CARNES, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>100 Larkin Street (Grove &amp; Hyde Street frontages).</p> <p>Appealing the ISSUANCE on August 9, 2021 of a Public Works Order (approval for the Bureau of Urban Forestry to remove 17 Ficus street trees with replacement along the Grove Street and Hyde Street frontages of the subject property; each of the trees falls within at least one of the conditions warranting removal set forth in Order # 183151: Tree Removal Criteria for Ficus Trees; additionally, great weight is given to the tree failure which occurred May 29, 2021 and the posting of another tree for emergency removal as evidence of a public safety risk).</p> <p>ORDER NO. 205288. FOR HEARING TODAY.</p>
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**ADJOURNMENT.**

**Note:** The materials for each item on this agenda may include some or all of the following documents: Preliminary Statement of Appeal; Departmental determination being appealed; briefs submitted by Appellants, Permit Holders, Respondent Departments or Other Parties; submittals by members of the public; and correspondence. These items, and any materials related to an item on this agenda that are distributed to the Board members at the hearing, are available for public inspection at the Board's website (<http://www.sfgov.org/boa>) and upon request by emailing the Board Office [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org). Please call 628-652-1150 if you have any questions concerning this agenda.

Date posted: **November 5, 2021**

**MEMBERS OF THE BOARD OF APPEALS**

<b>DARRYL HONDA</b>	<b>PRESIDENT</b>
<b>RICK SWIG</b>	<b>VICE PRESIDENT</b>
<b>ANN LAZARUS</b>	<b>COMMISSIONER</b>
<b>TINA CHANG</b>	<b>COMMISSIONER</b>
<b>JOSE LOPEZ</b>	<b>COMMISSIONER</b>

**PROCEDURE AT HEARINGS**

Except when the Presiding Officer finds good cause to order the presentations otherwise, the order of presentation of an appeal shall be as follows: (a) the appellant shall speak first and shall be allowed seven minutes to present relevant testimony and evidence. Then the permit holder, representatives of the department, board, commission or person from whose order the appeal is taken, and/or other parties, shall be allowed seven minutes for presentation of relevant testimony and evidence. Three minutes for rebuttal shall be provided to all parties in this same order; (b) the Board may request a departmental response at its own discretion. For rehearing requests and jurisdiction requests, each party shall be allowed three minutes to present testimony and evidence, with no rebuttal.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

Those members of the public who intend to testify about a particular appeal and wish to have the Board give their testimony evidentiary weight for purposes of deciding the appeal are asked to take an oath. Please note that any member of the public may speak without being sworn-in pursuant to their rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code).

**SPECIAL NOTES**

The Board reserves the right to not start an item on the agenda after 10:00 p.m.

If the Board continues a matter to a specific date that is announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at (628) 652-1150 for scheduling or other information during regular business hours or visit our website at [www.sfgov.org/boa](http://www.sfgov.org/boa).

The complete Rules of the Board are available for review on our website.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) , no later

## **REGULAR MEETING, BOARD OF APPEALS, NOVEMBER 10, 2021 - PAGE 6**

than 4:30 p.m. one Thursday prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org). Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. Please note that names and addresses included in these submittals will become part of the public record. Submittals may be made anonymously.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled the day of hearing or are taken out of order to accommodate special needs. The Board urges all parties to be present at the hearing from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

### **PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES**

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

### **ACCESSIBILITY INFORMATION**

If you need technical assistance or would like to receive instruction on how to access the meeting via Zoom, please email or call the Board Office: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150.

To obtain a disability-related modification or accommodation, including auxiliary aids or services to participate in the meeting, please contact the Board office at least 48 hours before the meeting at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150.

American sign language interpreters, translation services and/or sound enhancement will be available upon request by contacting Board staff at (628) 652-1150 at least 48 hours prior to the hearing.

Intérpretes de lenguaje de señas americano, servicio de traducción y/o mejoramiento del sonido estará disponible a petición contactando con personal de la Junta al (628) 652-1150 por lo menos 48 horas antes de la audiencia.

美国手语翻译, 翻译服务和/或声音增强将可在聆讯前48小时通过联系652-1150局人员要求.

Ang mga tagapagsalin sa lenggwaheng pasenyas, mga serbisyong pagsasalin at/o mga gamit upang pabutihin ang pakikinig ay maaaring hilingin sa Board Staff sa (628) 652-1150 sa hindi bababa na 48 oras bago mag hearing.

**KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: by mail to Administrator, Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-5163; or by e-mail at [sotf@sfgov.org](mailto:sotf@sfgov.org). Citizens interested in obtaining a free copy of the Sunshine Ordinance may request a copy from the Sunshine Ordinance Task Force Administrator or by printing Chapter 67 of the San Francisco Administrative Code on the internet at [www.sfgov.org/sunshine](http://www.sfgov.org/sunshine).

**LOBBYING ACTIVITY/CAMPAIGN CONTRIBUTIONS**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102; telephone: (415) 252-3100; email [ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org); web site [www.sfgov.org/ethics](http://www.sfgov.org/ethics).

Under Campaign and Governmental Conduct Code Section 1.127, no person or entity with a financial interest in a land use matter pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors, may make a campaign contribution to a member of the Board of Supervisors, the Mayor, the City Attorney, or a candidate for any of those offices, from the date the land use matter commenced until 12 months after the board or commission has made a final decision or any appeal to another City agency from that decision has been resolved. For more information about this restriction, visit [sfethics.org](http://sfethics.org).

**SUGGESTIONS TO IMPROVE EFFICIENCY**

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Board staff, at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150. A customer satisfaction survey form is available at the meetings, the Board office, and on the Board's web site, [www.sfgov.org/boa](http://www.sfgov.org/boa).

**ONLINE VIDEO STREAMING OF MEETINGS**

Online video streaming and audio and video file downloads of Board meetings are available at: [https://sanfrancisco.granicus.com/ViewPublisher.php?view\\_id=6](https://sanfrancisco.granicus.com/ViewPublisher.php?view_id=6).

**BOARD OF APPEALS**  
**CITY & COUNTY OF SAN FRANCISCO**  
49 South Van Ness Avenue, Suite 1475  
San Francisco, California 94103

The Board's physical office is open to the public by appointment only. Please email [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or call 628-652-1150 if you would like to meet with a staff member.