

**BOARD OF APPEALS**

**CITY & COUNTY OF SAN FRANCISCO**

**AGENDA FOR REGULAR MEETING - WEDNESDAY, DECEMBER 4, 2019**

**5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE**

(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 November 20, 2019 minutes.

(4) **APPEAL NO. 19-007**

<p>MARC HENG, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. DISAPPROVAL</p> <p>LARRY &amp; PAMELA BAER, Section 14 Party</p>	<p>610 El Camino Del Mar. Appealing the DENIAL on January 7, 2019, to Marc Heng, of a Site Permit (extension of existing terrace and railing at main living floor to replace a portion of existing solarium roof; no alterations to front of house). PERMIT NO. 2018/04/25/7347S. FOR FURTHER CONSIDERATION. <b>Note: On September 11, 2019, the Board voted 4-0-1 (Commissioner Tanner absent) to continue this matter to October 23, 2019 to allow time for the parties to work on reaching a settlement agreement, and that if a compromise is proposed, it will be reviewed and approved by the Planning Department prior to the next hearing. On October 23, 2019, the Board voted 4-0-1 (Commissioner Santacana absent) to continue this matter to December 4, 2019 to allow more time for settlement discussions. If the Board grants the appeal, this action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to San Francisco Administrative Code Section 31.04(h).</b></p>
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**(5) APPEAL NO. 19-128**

<p>WALTER MOLINA BERRIOS, Appellant(s)</p> <p>vs.</p> <p>ARTS COMMISSION, Respondent</p>	<p>Appealing the REVOCATION on November 5, 2019 of Walter Molina Berrios' Street Artist License (violation of the Street Artists Ordinance and Item numbers 2, 3, 15 and 17 of the Code of Conduct for parking at a fire hydrant, having an open container of alcohol, engaging in a verbal altercation, and refusing to comply with Recreation and Park personnel at the Embarcadero Plaza).</p> <p>PERMIT NO. 8337.</p> <p>FOR HEARING TODAY.</p>
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**(6) APPEAL NO. 19-111**

<p>FC 5M H1, LLC, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>912 Howard Street.</p> <p>Appealing the ISSUANCE on September 16, 2019, to FC 5M H1, LLC, of a Public Works Order (denial of the request to remove four street trees with replacement).</p> <p>ORDER NO. 201904.</p> <p>FOR HEARING TODAY.</p>
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**(7) APPEAL NO. 19-114**

<p>ERNEST TOM, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>3001 26th Avenue.</p> <p>Appealing the ISSUANCE on September 20, 2019, to Ai Cheng Liang, of an Alteration Permit (convert existing roof to new roof deck at existing storage building roof (popout); convert existing window to new door to deck).</p> <p>PERMIT NO. 2019/09/12/1426.</p> <p>FOR HEARING TODAY.</p>
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**ITEMS (8A) AND (8B) SHALL BE HEARD TOGETHER**

**(8A) APPEAL NO. 19-116**

<p>SIX DOGS LLC, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>3426-3432 22nd Street. Appealing the REVOCATION, on September 30, 2019, of nine building permits issued to Six Dogs LLC (Nine permits were issued to remodel the four-unit building; repair rear stairs, front facade and soft story seismic work; however, a site visit has revealed that work exceeded the scope of the approved permits and the plans contain inaccurate information; this is documented in Notice of Violation number 201987211). PERMIT NOS. 2018/07/12/4400, 2018/07/23/5200, 2018/08/01/6151, 2018/11/21/6573, 2018/11/21/6577, 2018/11/21/6578, 2018/11/21/6579, 2018/11/21/6580, 2018/12/24/9088. FOR HEARING TODAY.</p>
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**(8B) APPEAL NO. 19-118**

<p>PAT BUSCOVICH, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>3426-3432 22nd Street. Appealing the REVOCATION, on September 30, 2019, of nine building permits issued to Six Dogs LLC (Nine permits were issued to remodel the four-unit building; repair rear stairs, front facade and soft story seismic work; however, a site visit has revealed that work exceeded the scope of the approved permits and the plans contain inaccurate information; this is documented in Notice of Violation number 201987211). PERMIT NOS. 2018/07/12/4400, 2018/07/23/5200, 2018/08/01/6151, 2018/11/21/6573, 2018/11/21/6577, 2018/11/21/6578, 2018/11/21/6579, 2018/11/21/6580, 2018/12/24/9088. FOR HEARING TODAY.</p>
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**(9) SPECIAL ITEM: DISCUSSION AND POSSIBLE ADOPTION OF THE DEPARTMENTAL ANNUAL REPORT FOR FISCAL YEAR 2018-2019.**

**ADJOURNMENT.**

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**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 at the Board's office during normal office hours (Monday to Friday, 8:00 a.m. to 5:00 p.m., 1650 Mission Street, Room 304) and in the hearing room on the date the matter is scheduled to be heard. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **November 27, 2019**

### **MEMBERS OF THE BOARD OF APPEALS**

<b>RICK SWIG</b>	<b>PRESIDENT</b>
<b>ANN LAZARUS</b>	<b>VICE PRESIDENT</b>
<b>DARRYL HONDA</b>	<b>COMMISSIONER</b>
<b>RACHAEL TANNER</b>	<b>COMMISSIONER</b>
<b>EDUARDO SANTACANA</b>	<b>COMMISSIONER</b>

### **CEQA Appeal Rights under Chapter 31 of the San Francisco Administrative Code**

If the Board's action on a project constitutes the Approval Action for that project (as defined in S.F. Administrative Code Chapter 31, as amended, Board of Supervisors Ordinance Number 161-13), then the CEQA determination prepared in support of that Approval Action is thereafter subject to appeal within the time frame specified in S.F. Administrative Code Section 31.16. This appeal is separate from and in addition to an appeal of an action on a project. Typically, an appeal must be filed within 30 calendar days of the Approval Action for a project that has received an exemption or negative declaration pursuant to CEQA. For information on filing an appeal under Chapter 31, contact the Clerk of the Board of Supervisors at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102, or call (415) 554-5184. If the Planning Department's Environmental Review Officer has deemed a project to be exempt from further environmental review, an exemption determination has been prepared and can be obtained on-line at <http://www.sf-planning.org/index.aspx?page=3447>. Under CEQA, in a later court challenge, a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process on the CEQA decision.

### **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

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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 415-575-6880 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 at the Board office, and 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 the Board office, 1650 Mission Street, Room 304, no later 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 the Board office. 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. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies. 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 in the hearing room 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**

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. 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 (415) 575-6880.

The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

City Hall is accessible to persons using wheelchairs and other assistive mobility devices. Wheelchair access is provided at the Grove, Van Ness and McAllister streets via ramps. Wheelchair access at the Polk Street/ Carlton B. Goodlett entrance is provided through a wheelchair lift.

American sign language interpreters, translation services and/or sound enhancement will be available upon request by contacting Board staff at (415) 575-6880 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 415-575-6880 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575-6880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 575-6880 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

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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**

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).

### **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 415-575-6880 or fax 415-575-6885. 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).

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CITY & COUNTY OF SAN FRANCISCO**  
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