

# BOARD OF APPEALS

## CITY & COUNTY OF SAN FRANCISCO

### AGENDA FOR REGULAR MEETING - WEDNESDAY, APRIL 11, 2018

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. 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 March 21, 2018 minutes.

#### (4) REHEARING REQUEST

**Subject property at 518 Taylor Street.** 520 Taylor Street LP, appellant, is requesting a rehearing of Appeal No. 17-199, 520 Taylor Street LP vs. ZA, decided February 28, 2018. At that time, the Board voted 1-4 (Vice President Swig, Commissioner Honda, Commissioner Lazarus and Commissioner Wilson dissented) to grant the appeal and overturn the Letter of Determination on the basis that the Zoning Administrator erred by relying on a violation issued by the Department of Public Health that was faulty due to a lack of notice to the property owner. Lacking the four votes needed to pass, the motion failed. With no further motion made, the determination was upheld by operation of law. **Determination Holder:** 520 Taylor Street LP. **Appeal:** Protesting the issuance of a Letter of Determination regarding a request to abate the existing Planning Code violation preventing the operation of a Massage Establishment at this location for three years, based upon the assertion that the property owner was not notified by the Department of Public Health that violations to Article 29 of the Health Code existed and thus did not have the opportunity to cure any existing violations on the property. **Case No.:** 2017-008524ZAD

**ITEMS (5A) and (5B) SHALL BE HEARD TOGETHER:**

**(5A) CONSIDERATION OF WHETHER TO DIRECT THE PREPARATION OF WRITTEN FINDINGS**

<p>LIDIA WOYTAK, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>1033-1037 Washington Street. Protesting the ISSUANCE on December 15, 2017, to 1033-1037 Washington Street LLC, of a Site Permit (fourth floor residential unit addition to building; renovation of third floor unit entry; renovation of basement; repair of existing egress stair at rear of property; seismic and foundation upgrade). APPLICATION NO. 2016/02/01/8496S. <b>Note: the public hearing was held and closed on March 7, 2018. At that time, the Board voted 4-1 (Commissioner Lazarus dissented) to grant the appeal and deny the permit on the basis that the building is nonconforming and out of character with the neighborhood. At the direction of the President, this matter is returning to consider whether to direct the preparation of written findings to support the Board's March 7, 2018 decision in accordance with Section 8 of the Board's rules.</b></p>
--	---

**(5B) REHEARING REQUEST TO BE CONSIDERED IF ITEM (5A) IS DENIED**

<p><b>Subject property at 1033-1037 Washington Street.</b> 1033-1037 Washington Street LLC, permit holder, is requesting a rehearing of Appeal No. 18-002, <u>1033-1037 Washington Street LLC vs. DBI, PDA</u>, decided March 07, 2018. At that time, the Board voted 2-3 (President Fung, Vice President Swig and Commissioner Wilson dissented) to deny the appeal and uphold the permit on the basis that it was properly issued. Lacking the three votes needed to pass, the motion failed. Upon motion by Vice President Swig, the Board voted 4-1 (Commissioner Lazarus dissented) to grant the appeal and deny the permit on the basis that the building is nonconforming and out of character with the neighborhood. <b>Appellant:</b> Lidia Woytak. <b>Project:</b> fourth floor residential unit addition to building; renovation of third floor unit entry; renovation of basement; repair of existing egress stair at rear of property; seismic and foundation upgrade. <b>Application No.:</b> 2016/02/01/8496S.</p>
---

**REGULAR MEETING, BOARD OF APPEALS, APRIL 11, 2018 - PAGE 3**

**(6) APPEAL NO. 17-193**

<p>ANTHONY TAM, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>566 29<sup>th</sup> Avenue. Protesting the ISSUANCE on November 27, 2017, to Steve Huang, of a Site Permit (two-story horizontal addition to existing rear side of building; total addition area is 689sf; interior remodel at second floor and third floor; add second unit to existing building). APPLICATION NO. 2013/08/23/5160S. FOR FURTHER CONSIDERATION TODAY. <b>Note: on February 21, 2018, the Board voted 4-0-1 (Commissioner Wilson absent) to continue the appeal to March 07, 2018 to allow time for the Planning Department to verify what plans were sent to the neighbors as part of the neighborhood notification mailing. On March 07, 2018, the Board voted 5-0 to continue this appeal to April 11, 2018 to allow time for the permit holder to submit revised plans reflecting the elimination of the fourth floor.</b></p>
---	---

**(7) APPEAL NO. 18-008**

<p>ZAVEN DAIGIAN, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS BUREAU OF STREET USE AND MAPPING, Respondent</p>	<p>765 2nd Avenue. Appealing the ISSUANCE on January 03, 2018, to Crown Castle NG West LLC, of a Personal Wireless Service Facility Site Permit (construction of a personal wireless service facility in a Zoning Protected Location). PERMIT NO. 17WR-0222. FOR HEARING TODAY.</p>
--	---

**(8) APPEAL NO. 17-196**

<p>ROYA &amp; RAY RASSAI, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent  ARCEIL JURANTY &amp; STEVEN FAIG, Subject Property Owners (100 Rivoli Street)</p>	<p>122 Rivoli Street. Protesting the ISSUANCE on December 12, 2017, of a Revised Letter of Determination regarding the clarification of certain conditions of a Variance Decision, Case No. 92.307V, issued on September 28, 1992 in connection with the subdivision of a single parcel into two lots at 100 Rivoli Street and 122 Rivoli Street. CASE NO. 2017-009243ZAD. FOR HEARING TODAY. <b>Note: on February 28, 2018, the Board voted 5-0 to continue this matter at the request of the parties.</b></p>
--	---

**REGULAR MEETING, BOARD OF APPEALS, APRIL 11, 2018 - PAGE 4**

**(9) APPEAL NO. 18-012**

ALBERT TOM, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	245 11 <sup>th</sup> Avenue. Protesting the ISSUANCE on January 12, 2018, to James Shegoian, of a Site Permit (infill of existing light court at ground floor for laundry and common half bathroom). APPLICATION NO. 2016/06/03/9132S. FOR HEARING TODAY.
--	--

**(10) APPEAL NO. 17-184**

REALLY WHY, LLC, Appellant(s) vs.  ZONING ADMINISTRATOR, Respondent  LUCY REYNALES & ARVIND MOHAN, Subject Property Owners, 1472 McAllister Street  JASON SPARKS & ALYSSA MERWIN, Subject Property Owners, 1474 McAllister Street	1470-1474 McAllister Street. Appealing the ISSUANCE on November 21, 2017, of a Suspension Request (requesting that BPA Nos. 2017/09/01/6795 and 2016/08/11/4813 be suspended for the reason that the three-unit condominium constructed on the subject property in 2016 was not completed in accordance with the final approved plans for the building, permitted under BPA No. 2013/02/15/0317). FOR HEARING TODAY.
--	--

**(11) APPEAL NO. 18-014**

SWEET INSPIRATION, Appellant(s) vs.  ZONING ADMINISTRATOR, Respondent	2239 Market Street. Protesting the ISSUANCE on January 22, 2018, of a Notice of Violation (alleging violation of Planning Code Section 303.1(e) for operating a Formula Retail use at the subject property without a Conditional Use Authorization). COMPLAINT NO. 2016-008485ENF. FOR HEARING TODAY.
--	--

**(12) APPEAL NO. 18-013**

PHILIP ACHILLES, Appellant(s) vs.  ZONING ADMINISTRATOR, Respondent	819 Ellis Street. Appealing the ISSUANCE on January 31, 2018, of a Notice of Violation & Penalty (alleging violation of Planning Code Sections 171 and 712 for the unauthorized operation of a Light Manufacturing use (furniture and fixtures) in the basement level of the subject property). COMPLAINT NO. 2017-013154ENF FOR HEARING TODAY.
--	--

**(13) APPEAL NO. 17-183**

RICH MENENDEZ, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent  SIDRA MONTGOMERY LLC, Subject Property Owner	180 Montgomery Street. Appealing the ISSUANCE on November 15, 2017, of a Letter of Determination regarding whether an existing use on the subject property (dba Workshop Café) is a Restaurant Use under the Planning Code. RECORD NO. 2017-008528ZAD FOR HEARING TODAY.
--	---

**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 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: **April 06, 2018**

**MEMBERS OF THE BOARD OF APPEALS**

<b>FRANK FUNG</b>	<b>PRESIDENT</b>
<b>RICK SWIG</b>	<b>VICE PRESIDENT</b>
<b>DARRYL HONDA</b>	<b>COMMISSIONER</b>
<b>ANN LAZARUS</b>	<b>COMMISSIONER</b>
<b>BOBBIE WILSON</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

## **REGULAR MEETING, BOARD OF APPEALS, APRIL 11, 2018 - PAGE 6**

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**

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 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. 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.

American sign language interpreters, translation services and/or sound enhancement will be available upon request by contacting Board staff at 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 [soft@sfgov.org](mailto:soft@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**

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

## **REGULAR MEETING, BOARD OF APPEALS, APRIL 11, 2018 - PAGE 8**

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 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; 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).

### **DVD'S OF MEETINGS**

DVD's of meetings may be obtained from SFGOVTV. Please telephone 415-554-4188 or go to <http://sfgovtv.org> for information.

**BOARD OF APPEALS  
CITY & COUNTY OF SAN FRANCISCO**  
1650 Mission Street, Room 304  
San Francisco, California 94103