

**BOARD OF APPEALS**

**CITY & COUNTY OF SAN FRANCISCO**

**AGENDA FOR REGULAR MEETING - WEDNESDAY, MAY 15, 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 May 08, 2019 minutes.

(4) **REHEARING REQUEST**

**Subject property at 198 Guerrero Street.** Mission Beach Café, Appellant, is requesting a rehearing of Appeal No. 19-015, Mission Beach Café v. DPH, decided April 17, 2019. At that time, the Board voted 2-2-1 (President Fung and Commissioner Honda dissented; Commissioner Lazarus absent) to deny the appeal and uphold the revocation of the permit on the basis that the Department of Public Health acted properly. Lacking the three votes needed to pass, the motion failed. With no further motion made, the revocation of the permit was upheld by operation of law. **Determination Holder:** Mission Beach Café. **Appeal:** Protesting the Revocation on March 5, 2019, of a Permit to Operate a Restaurant (because of serious and repeated violations of both state and local health codes, including an ongoing cycle of the owner/operator's acknowledgement of the violation(s), verbal and written assurances of enduring correction, and near immediate recidivism). **Case No.:** FOD-19-01.

(5) **APPEAL NO. 19-021**

PETER LINN, Appellant(s)  
vs.

DEPT. OF BUILDING INSPECTION, Respondent  
PLANNING DEPT. APPROVAL

8 San Lorenzo Way.  
Protesting the ISSUANCE on March 12, 2019, to Benjamin and Ying C. Yip, of a Site Permit (construction of a new two-story, one basement, Type 5, single-family residence building).  
APPLICATION NO. 2016/12/21/5604S.  
FOR HEARING TODAY.

**REGULAR MEETING, BOARD OF APPEALS, MAY 15, 2019 - PAGE 2**

**(6) APPEAL NO. 19-022**

JUDD WINICK & PAM LING, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1621 Diamond Street. Protesting the ISSUANCE on March 25, 2019, to Paramount Estate LLC, of a Site Permit (horizontal/vertical addition to existing single-family house; add two new baths; add two new half baths). APPLICATION NO. 2017/08/10/4463S. FOR HEARING TODAY.
--	--

**(7) APPEAL NO. 19-023**

H. SOLIMAN, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	440 Molimo Drive. Protesting the ISSUANCE on March 29, 2019, to Charmaine Curtis & Kurt McCulloch, of an Alteration Permit (remove fireplace in second floor living room; add new powder room; horizontal addition at the third floor to create new master bedroom, bathroom and home office). APPLICATION NO. 2018/06/19/2350. FOR HEARING TODAY.
--	---

**(8) APPEAL NO. 19-043**

JENNIFER OLIVER & HARVEY HACKER, Appellant(s) vs.  PLANNING DEPARTMENT, Respondent	970 Tennessee Street. Protesting the ISSUANCE on April 11, 2019, of a Suspension Request (request to suspend Permit Nos.: 2018/07/25/5461, 2018/12/21/8976, 2019/02/22/3660 and 2019/04/09/7495 because the subject permits were approved and issued by DBI without review by the Planning Department; the scope of work for BP Nos. 2018/07/25/5461 and 2018/12/21/8976 includes interior renovations at the first floor for a new accessory lab, offices, and accessible bathrooms; review is required to determine if the proposal constitutes a change of use; the scope of work for BP Nos. 2019/02/22/3660 and 2019/04/09/7495 includes new openings for property line windows; as this property is located within the boundaries of the Planning Code Article 10 Dogpatch Historic District, any exterior changes require a Certificate of Appropriateness). FOR HEARING TODAY.
--	--

**(9) APPEAL NO. 18-140**

ESPETUS CHURRASCARIA, INC., Appellant(s) vs.  ZONING ADMINISTRATOR, Respondent	1686 Market Street. Protesting the ISSUANCE on October 12, 2018, of a Notice of Violation and Penalty Decision (alleging violation of the Planning Code due to non-compliance with Planning Code Section 174; the property owner and tenant are not in compliance with the Conditions of Approval contained in the Conditional Use Authorization granted by the Planning Commission on August 13, 2009 (Case No. 2007.0953C; Motion No. 17939) to legalize the expansion of the subject full-service restaurant; specifically, Condition of Approval No. 7 requires that “noise and odors shall be controlled so as not to present a nuisance to nearby residents and businesses.”). COMPLAINT NO. 2018-004446ENF. 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 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: **May 10, 2019**

**MEMBERS OF THE BOARD OF APPEALS**

<b>RICK SWIG</b>	<b>PRESIDENT</b>
<b>ANN LAZARUS</b>	<b>COMMISSIONER</b>
<b>DARRYL HONDA</b>	<b>COMMISSIONER</b>
<b>RACHAEL TANNER</b>	<b>COMMISSIONER</b>
<b>(VACANT)</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**

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 [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 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).

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