

## **BOARD OF APPEALS**

### **CITY & COUNTY OF SAN FRANCISCO**

#### **MEETING MINUTES - WEDNESDAY, NOVEMBER 10, 2021**

#### **REMOTE MEETING VIA ZOOM**

PRESENT: President Darryl Honda, Vice President Rick Swig, Commissioner Tina Chang and Commissioner Jose Lopez.

Brad Russi, Deputy City Attorney, Office of the City Attorney (CAT); Corey Teague, Zoning Administrator, Planning Department (PD); Scott Sanchez, Deputy Zoning Administrator, PD; Joseph Duffy, Deputy Director, Department of Building Inspection (DBI); Matthew Greene, Senior Building Inspector, DBI; Valerie Lopez, Deputy City Attorney on behalf of the Department of Public Health (DPH); Janine Young, Senior Health Inspector, DPH; Jennifer Callewaert, Principal Environmental Health Inspector, DPH; Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

ABSENT: Commissioner Ann Lazaurus.

#### **(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.

SPEAKERS: None.

#### **(2) COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: President Honda congratulated David Chiu on his appointment to the San Francisco City Attorney's office.

PUBLIC COMMENT: None.

**(3) ADOPTION OF MINUTES**

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

ACTION: Upon motion by Vice President Swig the Board voted 4-0-1 (Commissioner Lazarus absent) to adopt the October 27, 2021 minutes.

PUBLIC COMMENT: None.

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

<p>JEAN MONT-ETON, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>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. <b>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.</b></p>
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ACTION: Upon motion by President Honda, the Board voted 4-0-1 (Commissioner Lazarus absent) to grant the appeal and issue the permit on the condition that the revised plans submitted for the hearing are adopted, on the basis that the plans are code compliant and address the privacy concerns of the appellant.

SPEAKERS: Chris Erchick, agent for permit holder; Jean Mont-Eton, appellant; Scott Sanchez, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

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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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**ACTION:** Upon motion by Vice President Swig, the Board voted 4-0-1 (Commissioner Lazarus absent) to continue this Item to December 8, 2021 so that the permit holder can submit revised plans that: (1) make the unit more desirable and livable, and (2) address the outstanding issues identified in the NOV's on the property.

**SPEAKERS:** Tom Drohan, attorney for appellants; Greg Marrell, agent for appellants; Sergio Armas, agent for appellants; Karen Uchiyama, attorney for permit holder; Vlad Chernougaz, agent for permit holder; Ronald Yu, agent for permit holder; Scott Sanchez, PD; Joseph Duffy, DBI.

**PUBLIC COMMENT:** David Elliot stated that he hoped the matter would be continued so that the parties could work things out. Joanne Bloomfield and Silvia Urrutia spoke in support of the appellants.

**(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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**ACTION:** Upon motion by Vice President Swig, the Board voted 3-0-2 (President Honda recused and Commissioner Lazarus absent) to deny the appeal and uphold the order on the basis that the penalty is consistent with the DPH regulations, and the appellant was given proper notice of the applicable law.

**SPEAKERS:** President Honda (recused himself from hearing this matter since his wife owns property within 500 feet of the subject property); Bilal Choudery, agent for appellant; Valerie Lopez, CAT; Janine Young, DPH; Jennifer Callewaert, DPH.

**PUBLIC COMMENT:** Willie Thomas, Dhillon, Amber Baig, Anonymous Caller, Richard Jackson, and Moto E. spoke in support of the appellant.

**ITEMS (7A), (7B), (7C), (7D) & (7E) SHALL BE HEARD TOGETHER**

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

<p>JOSHUA KLIPP, 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; 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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**(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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**ACTION:** Upon motion by Vice President Swig, the Board voted 4-0-1 (Commissioner Lazarus absent) to grant the appeals and issue the order on the condition it be revised to require:

(1) The removal of the eight trees identified below which pose a hazard. The replacement shall be one to one within six months of removal with the expectation that BUF will honor its agreement that two to one replacement shall be completed within one year of removal pending available funding:

a. 30 Grove Street Removal

- i. Tree 2 (127638) Remove
- ii. Tree 3 (127639) Remove
- iii. Tree 4 (127640) Remove (Note: The Tree has already been removed due to failure on 5/29/21)
- iv. Tree 10 (127646) Remove

b. 11 Hyde Street Removal

- i. Tree 3 (127630) Remove
- ii. Tree 4 (127631) Remove
- iii. Tree 5 (127632) Remove
- iv. Tree 9 (127636) Remove (Note: Tree has already been removed as emergency on 6/10/21).

(2) The pruning of the eleven trees identified below:

a. 30 Grove Street Pruning

- i. Tree 1 (127637) Prune
- ii. Tree 5 (127641) Prune
- iii. Tree 6 (127642) Prune
- iv. Tree 7 (127643) Prune
- v. Tree 8 (127644) Prune

vi. Tree 9 (127645) Prune

b. 11 Hyde Street Pruning

- i. Tree 1 (127628) Prune (tree removed on emergency basis on 9/7/21)
- ii. Tree 2 (127629) Prune
- iii. Tree 6 (127633) Prune
- iv. Tree 7 (127634) Prune
- v. Tree 8 (127635) Prune

(3) If any other trees need to be removed in the future, BUF will again initiate the removal notification process and post notices as outlined in their tree removal permit process and the Board would strongly recommend that any tree removed in the future be replaced on a two to one ratio.

This motion was made for the protection and safety of the citizens of San Francisco.

The Board further requested that the Executive Director prepare a letter for the Board's consideration at a future meeting, which is addressed to the Board of Supervisors, and which encourages Public Works to collaborate with the community to develop a tree plan for the area around the Main Library and the Tenderloin.

SPEAKERS: Joshua Klipp, appellant (Appeal No. 21-081); Betty Traynor, appellant (Appeal No. 21-082); Deetje Boler, appellant (Appeal No. 21-083); Kasey Asberry, appellant (Appeal No. 21-084); Lance Carnes, appellant (Appeal No. 21-085); Chris Buck, BUF.

PUBLIC COMMENT: Jesse Johnson, David Elliot Lewis, John Nulty, Kathy Howard, Roz Arbel and Michael Nulty spoke in support of the appellants. Todd Robinson, on behalf of the Public Library, spoke in support of a compromise and phased approach.

**ADJOURNMENT.**

There being no further business, President Honda adjourned the meeting at 10:39 p.m.

The supporting documents for this meeting can be found at the following link:

<https://sfgov.org/bdappeal/meeting/board-appeals-november-10-2021-supporting-documents>

A video of this meeting, can be found at the following link:

[https://sanfrancisco.granicus.com/player/clip/39841?view\\_id=6&redirect=true](https://sanfrancisco.granicus.com/player/clip/39841?view_id=6&redirect=true)