

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY JUNE 20, 2018

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

PRESENT: President Frank Fung, Commissioner Darryl Honda, Commissioner Ann Lazarus and Commissioner Bobbie Wilson.

Brad Russi, Deputy City Attorney, Office of the City Attorney (OCA); Ronnie Wagner, Deputy City Attorney for the San Francisco Police Department (OCA); Officer Robert Forneris, San Francisco Police Department (SFPD); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Patrick Fosdahl, Assistant Director Environmental Health Branch, San Francisco Department of Public Health (DPH); Amanda Higgins, Personal Wireless Service and Surface Mounted Facility Program Coordinator, San Francisco Public Works, Bureau of Street Use and Mapping (SFPW-BSM); Chris Buck, Urban Forester, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Brent Cohen, Assistant Engineer, SFPW-BSM; Julie Rosenberg, Executive Director; Gary Cantara, Legal Assistant.

ABSENT: Vice President Rick Swig.

(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: Commissioner Honda wished Vice President Swig a speedy recovery.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the June 13, 2018 minutes.

ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (Vice President Swig absent) to adopt the June 13, 2018 minutes.

PUBLIC COMMENT: None.

(4) APPEAL NO. 18-039

<p>MARLENE KRAMER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>2242 35th Avenue. Protesting the ISSUANCE on March 06, 2018, to Gene Lau, of an Alteration Permit (revision to BPA No. 2017/10/17/1427; interior room reconfiguration per plans; new deck at rear; replace two front windows in-kind with aluminum clad wood windows). APPLICATION NO. 2018/03/01/2621. FOR FURTHER CONSIDERATION TODAY. Note: on May 09, 2018, the Board voted 5-0 to continue this matter to allow time for DBI to research the permit history and report back on the status of the project in relation to those permits.</p>
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ACTION: Administratively Dismissed.

(5) APPEAL NO. 18-030

<p>ABDALLA JOSEPH DBA "SAVE MOR MART," Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent</p>	<p>4522 3rd Street. Appealing the DENIAL on March 02, 2018, of a Tobacco Sales Establishment Permit (pursuant to Article 19H of the San Francisco Health Code). EHD ID NO. 76038 FOR FURTHER CONSIDERATION TODAY. Note: on April 25, 2018, the Board voted 5-0 to continue this matter to allow time for the Department of Public Health to provide information regarding their density cap analysis. On June 06, 2018, the Board voted 4-0-1 (Commissioner Wilson absent) to continue this matter to allow time for the appellant to get a Letter of Determination from the Department of Building Inspection's Technical Services Division regarding the seismic upgrades at 4500 3rd Street.</p>
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ACTION: Upon motion by President Fung, the Board voted 4-0-1 (Vice President Swig absent) to grant the appeal and issue the permit, on the basis that the proposed building permit application for 4500 3rd Street has within its scope of work seismic upgrades which would qualify the appellant for an exemption under Section 19H.6(d) of the San Francisco Health Code.

SPEAKERS: Jeremy Paul, agent for permit holder; Patrick Buscovich, agent for permit holder; Joseph Duffy, DBI; Patrick Fosdahl, DPH.

PUBLIC COMMENT: Ronde Stephen-Pitts and Dorris Vinson spoke in support of the appellant.

ITEMS (6A), (6B), (6C) AND (6D) SHALL BE HEARD TOGETHER

(6A) APPEAL NO. 18-025

<p>PRESIDIO HEIGHTS ASSOCIATION OF NEIGHBORS, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS BUREAU OF STREET USE AND MAPPING, Respondent</p>	<p>3512 Clay Street. Protesting the ISSUANCE on February 23, 2018, to Verizon Wireless, of a Personal Wireless Service Facility Site Permit (construction of a personal wireless service facility in a Zoning Protected Location). PERMIT NO. 16WR-0139. FOR CONSIDERATION TODAY OF THE ADOPTION OF WRITTEN FINDINGS IN ACCORDANCE WITH SECTION 8 OF THE BOARD'S RULES. Note: On May 09, 2018, the Board voted 5-0 to continue the matter for the preparation of written findings to support a decision to grant the appeal and deny the permit, on the basis that the wireless facility would significantly impair the defining aspects of the neighborhood.</p>
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(6B) APPEAL NO. 18-026

<p>SCOTT WYCKOFF, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS BUREAU OF STREET USE AND MAPPING, Respondent</p>	<p>3512 Clay Street. Protesting the ISSUANCE on February 23, 2018, to Verizon Wireless, of a Personal Wireless Service Facility Site Permit (construction of a personal wireless service facility in a Zoning Protected Location). PERMIT NO. 16WR-0139. FOR CONSIDERATION TODAY OF THE ADOPTION OF WRITTEN FINDINGS IN ACCORDANCE WITH SECTION 8 OF THE BOARD'S RULES. See Note in 6A above.</p>
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(6C) APPEAL NO. 18-031

<p>CORNELIA ELLWEIN, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS BUREAU OF STREET USE AND MAPPING, Respondent</p>	<p>3512 Clay Street. Protesting the ISSUANCE on February 23, 2018, to Verizon Wireless, of a Personal Wireless Service Facility Site Permit (construction of a personal wireless service facility in a Zoning Protected Location). PERMIT NO. 16WR-0139. FOR CONSIDERATION TODAY OF THE ADOPTION OF WRITTEN FINDINGS IN ACCORDANCE WITH SECTION 8 OF THE BOARD'S RULES. See Note in 6A above.</p>
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(6D) APPEAL NO. 18-032

MERRILL RANDOL & STEPHEN SHERWIN, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS BUREAU OF STREET USE AND MAPPING, Respondent	3512 Clay Street. Protesting the ISSUANCE on February 23, 2018, to Verizon Wireless, of a Personal Wireless Service Facility Site Permit (construction of a personal wireless service facility in a Zoning Protected Location). PERMIT NO. 16WR-0139. FOR CONSIDERATION TODAY OF THE ADOPTION OF WRITTEN FINDINGS IN ACCORDANCE WITH SECTION 8 OF THE BOARD'S RULES. See Note in 6A above.
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ACTION: Upon motion by Commissioner Lazarus, the Board voted 2-2-1 (President Fung and Commissioner Honda dissented; Vice President Swig absent) to deny the appeals 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 President Fung, the Board voted 2-2-1 (Commissioner Lazarus and Commissioner Wilson dissented; Vice President Swig absent) to adopt the findings and grant the appeals on the basis that the permit was not properly issued. Lacking the four votes needed to pass, the motion failed. With no further motion made, the issuance of the permit was upheld by operation of law.

SPEAKERS: Scott Wyckoff, appellant (Appeal No.18-026); Merrill Randol, appellant (Appeal No. 18-032); Cornelia Ellwein, appellant (Appeal No. 18-031); Charles Ferguson, agent for appellant (Appeal No. 18-025); Paul Albritton, attorney for permit holder; Amanda Higgins, SFPW-BSM.

PUBLIC COMMENT: None.

(7) APPEAL NO. 18-021

JOSE BADILLO DBA "JOSE'S TOWING LLC," Appellant(s) vs. POLICE DEPT., Respondent	54 Vesta Street. Appealing the REVOCATION on February 14, 2018, of a Tow Car Firm Permit and a Tow Car Operator Permit. FOR FURTHER CONSIDERATION TODAY. Note: on April 18, 2018, the Board voted 5-0 to continue this appeal to allow time for the Police Department to submit additional evidence and to give the appellant an opportunity to receive the new evidence and respond.
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ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (Vice President Swig absent) to deny the appeal and uphold the revocation of the permits based on the evidence presented at the revocation hearing held before the San Francisco Police Department.

SPEAKERS: Ronnie Wagner, attorney for SFPD; Officer Robert Forneris, SFPD; Ryan Williams, agent for SFPD; Roseann Torres, attorney for appellant; José Badillo, appellant; CHP Officer Carlo Roca, agent for SFPD.

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PUBLIC COMMENT: Frank Moore, Alexandra Holguin, Ty Coleman, Elena Jara, Tony Huang, Katia Galvez and Maribel Estupinian spoke in support of the Police Department.

(8) APPEAL NO. 18-058

CONNIE MAR, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	2 Garfield Street. Protesting the ISSUANCE on April 18, 2018, of a Public Works Order (DENIAL of request to remove two significant trees with replacement on private property). ORDER NO. 187562. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Lazarus, the Board voted 4-0-1 (Vice President Swig absent) to grant the appeal and overrule the Public Works Order denying the removal of two trees, on the condition that the appellant replace one tree within the fence line on her property and one tree in the area where she was supposed to plant trees as a condition to a 2014 tree removal permit, with the size and type of replacement trees to be determined in consultation with the Urban Forester, on the basis that public safety prevails in the removal of the trees.

SPEAKERS: Connie Mar, appellant; Chris Buck, SFPW-BUF.

PUBLIC COMMENT: None.

ITEMS (9A) AND (9B) SHALL BE HEARD TOGETHER

(9A) APPEAL NO. 18-060

UNION SQUARE BUSINESS IMPROVEMENT DISTRICT, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS BUREAU OF STREET USE AND MAPPING, Respondent	281 Geary Street. Protesting the ISSUANCE on April 27, 2018, to San Francisco's Hometown Creamery, of a Mobile Food Facility Permit (conditional approval of the request to operate a mobile food facility at a location 80 linear feet east of the Powell Street and Geary Street intersection, operating Friday and Saturday from 6:00PM to 11:00PM, and Sunday from 11:00AM to 11:00PM). PERMIT NO. 17MFF-0001. FOR HEARING TODAY.
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(9B) APPEAL NO. 18-061

STANLEY ROTH, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS BUREAU OF STREET USE AND MAPPING, Respondent	281 Geary Street. Protesting the ISSUANCE on April 27, 2018, to San Francisco's Hometown Creamery, of a Mobile Food Facility Permit (conditional approval of the request to operate a mobile food facility at a location 80 linear feet east of the Powell Street and Geary Street intersection, operating Friday and Saturday from 6:00PM to 11:00PM, and Sunday from 11:00AM to 11:00PM). PERMIT NO. 17MFF-0001. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Lazarus, the Board voted 3-1-1 (President Fung dissented and Vice President Swig absent) to grant the appeals and issue the permit on the condition that the size of the vehicle under the permit be restricted to the size of the proposed 1978 Volkswagon Vanagon, on the basis that the permit was properly issued and that the restriction will address the concerns about congestion in the area. Lacking the four votes needed to pass, the motion failed. Upon a motion by Commissioner Honda, the Board voted 3-1-1 (Commissioner Wilson dissented and Vice President Swig absent) to continue this matter to July 11, 2018 to allow Vice President Swig to participate in the vote.

SPEAKERS: Karin Flood, agent for appellant (Appeal No. 18-060); Stanley Roth, appellant (Appeal No. 18-061); Adam Halil, agent for permit holder; Saadi Halil, agent for permit holder; Brent Cohen, SFPW-BSM.

PUBLIC COMMENT: Bill Rutland, Opio Dupree, Victoria Brodsky and Stephen Brett spoke in support of the appellants. Ruth Rainero, Leah Shaprio, Pieter DeHaan, Jennifer Busick, Noah Belkin, Adam Gold, Zahra Kahn, Lily Zaldivar, Kimberly Sweetow, Natalie Barclay, June Jackson, Asmara, Dannielle Smith and Barrie Boguszewski spoke in support of the permit holder.

ADJOURNMENT.

There being no further business, President Fung adjourned the meeting at 9:45 p.m.