

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MAY 8, 2013

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

PRESENT: President Chris Hwang, Vice President Ann Lazarus, Commissioner Frank Fung, Commissioner Darryl Honda and Commissioner Arcelia Hurtado.

Robert Bryan, Deputy City Attorney, Office of the City Attorney (OCA); Scott Sanchez, Zoning Administrator (ZA); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); John Kwong, Manager, Department of Public Works Bureau of Street Use and Mapping (DPW BSM); Jocelyn Kane, Executive Director, Entertainment Commission; Cynthia Goldstein, Executive Director; Victor Pacheco, Legal Assistant.

(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.

SPEAKERS: None.

PUBLIC COMMENT: None.

(2) **COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: None.

(3) **ADOPTION OF MINUTES**

Discussion and possible adoption of the April 24, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to adopt the April 24, 2013 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

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(4) **ADDENDUM ITEMS:**

(4a) **REHEARING REQUEST:**

Subject property at 125 Crown Terrace. Letter from Stephen Williams, appellant, requesting rehearing of Appeal No. 12-159, Williams vs. DBI, PDA, decided March 20, 2013. At that time, the Board voted 3-2 to uphold the subject permit on the basis that the permit is Code conforming. Permit Holder: Crown Terrace LLC. Project: horizontal and vertical addition; BPA No. 2011/10/06/6315S.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to deny the rehearing request.

SPEAKERS: Stephen William, requestor; Lucien Blazej, agent for permit holder; Scott Sanchez, ZA.

PUBLIC COMMENT: John Keogan and Warren Sheets spoke in support of the permit holder.

(4b) **JURISDICTION REQUEST:**

Subject property at 5234 Mission Street. Letter from Marc Terbeek, attorney for Instituto Laboral de la Raza, requestor, asking that the Board take jurisdiction over BPA No. 2010/06/16/4643, which was issued by the Dept. of Building Inspection on Feb. 14, 2013, and the appeal period ended on March 01, 2013; the jurisdiction request was filed at the Board office on April 22, 2013. Permit Holder: Inna Yakobova dba "Tree Med". Project: proposed change of use from lighting fixture sales store to a medical cannabis dispensary.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 5-0 to deny the jurisdiction request on the basis that no notice was required under the Code.

SPEAKERS: Marc Terbeek, attorney for requestor; Brendan Hallinan, attorney for permit holder; Joseph Duffy, DBI; Scott Sanchez, ZA.

PUBLIC COMMENT: Eric Safire, Justina Perry, Nina Potepan, Nikia Harris, Vicky Blake, Edward Shorts, Vincent Cowant, Maria Rocha, Diane Adams, Angela McGill, Jacqueline Knight, Tabitha Ballard, Nathaniel Thomas and Jewnbug spoke in support of the permit holder.

(5) **SPECIAL ITEM:**

Subject Property at Piers 27-29. Board of Appeals Action: whether to accept the Port Commission's delegation of authority to hear and decide an appeal of the Entertainment Commission's issuance of a conditional Place of Entertainment permit (No. EC-1178) issued to Matt Prieshoff, dba "Live Nation/America's Cup Pavilion" for Piers 27-29, property under the jurisdiction of the Port Commission, and if the Board accepts such delegated authority, to ratify staff action accepting an appeal and setting the hearing for May 8, 2013.

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ACTION: Upon motion by President Hwang, the Board voted 5-0 to accept the delegation of authority and ratify staff action accepting an appeal and setting the hearing for May 8, 2013.

SPEAKERS: Adam Van de Water, agent for Entertainment Commission and Port; Susan Reynolds, agent for Port; Keith Wagner, attorney for appellants; Steve Vettel, attorney for permit holder.

PUBLIC COMMENT: Sam Berman and Lorraine Moreno spoke in support of the appellants; Flicka McGurrian spoke in support of the Board taking jurisdiction over the appeal.

(6) APPEAL NO. 13-045

<p>RECREATION & OPEN SPACE FOR THE WATERFRONT, GARY BOTTO AND FRED ALLARDYCE, Appellant(s) vs. ENTERTAINMENT COMMISSION, Respondent</p>	<p>Piers 27-29. Protesting the issuance on April 03, 2013, to Matt Prieshoff dba "Live Nation / America's Cup Pavilion", Conditional Place of Entertainment Permit (to hold no more than 30 paid concerts between May 15, 2013 and October 19, 2013 as specified). PERMIT NO. EC-1178. FOR HEARING TODAY (assuming the Board of Appeals accepts the delegation of authority from the Port Commission under Item No. 5).</p>
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ACTION: Upon motion by Vice President Lazarus, the Board voted 5-0 to deny the appeal, uphold the permit and adopt the findings and additional conditions as read into the record at the hearing.

SPEAKERS: Keith Wagner, attorney for appellants; Fred Allardyce, appellant; Steve Vettel, attorney for permit holder; Matt Prieshoff, agent for permit holder; Jane Eagleson, agent for permit holder; Jocelyn Kane, Entertainment Commission; Captain Tom Cleary, San Francisco Police Department; Lea Militello, San Francisco Municipal Transportation Agency.

PUBLIC COMMENT: Morton Beebe, Bob Harrer and Steve Lutge spoke in support of the permit holder. Sam Berman and Lorraine Moreno spoke in support of the appellants.

(7) APPEAL NO. 13-024

<p>LEGACY 455 MARKET STREET LP, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent</p>	<p>455 Market Street. Protesting the issuance on Feb. 15, 2013, to Kabob Trolley LLC, Mobile Food Facility Permit (sale of gyros, kebabs, soft drinks and water). PERMIT NO. 11MFF-0147. FOR HEARING TODAY.</p>
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ACTION: Upon motion by President Hwang, the Board voted 5-0 to deny the appeal and uphold the permit on the basis that it is Code compliant.

SPEAKERS: Kathy McKenna, agent for appellant; David Tchack, attorney for permit holder; Asadullah Amini, agent for permit holder; John Kwong, DPW BSM.

PUBLIC COMMENT: None.

ITEMS (8A), (8B), (8C) and (8D) SHALL BE HEARD TOGETHER

(8A) APPEAL NO. 12-158

STEPHEN WILLIAMS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2395 - 26 th Avenue. Appealing the issuance on December 06, 2012, to Howard Weston, Permit to Alter a Building (tenant improvement (commercial unit #1) new interior partition walls for four new offices, one conference room and break room; upgrade existing bathroom for ADA compliance). APPLICATION NO. 2012/12/04/5434. PUBLIC HEARINGS HELD ON FEB. 20, 2013. FOR FURTHER CONSIDERATION TODAY. Note: Matters were continued to allow time for the permit holder to submit additional information pursuant to the Board's comments; additional briefing is allowed.
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(8B) APPEAL NO. 12-166

STEPHEN WILLIAMS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2395 - 26 th Avenue. Appealing the issuance on December 06, 2012, to Howard Weston, Plumbing Permit (commercial unit #1: new ADA bathrooms, sink in break room). APPLICATION NO. PP2012/12/06/634. SEE NOTE IN ITEM 8A.
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(8C) APPEAL NO. 12-167

STEPHEN WILLIAMS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2395 - 26 th Avenue. Appealing the issuance on December 06, 2012, to Howard Weston, Plumbing Permit (commercial unit #1: replace heater/furnace). APPLICATION NO. PM2012/12/06/635. SEE NOTE IN ITEM 8A.
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(8D) APPEAL NO. 12-168

STEPHEN WILLIAMS, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2395 - 26 th Avenue. Appealing the issuance on December 06, 2012, to Howard Weston, Electrical Permit (commercial unit #1: replace 24 new lights and 30 switches). APPLICATION NO. E2012/12/06/7110. SEE NOTE IN ITEM 8A.
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ACTION: Upon motion by President Hwang, the Board voted 5-0 to continue the four appeals to May 15, 2013 to allow time for the parties to articulate their desired revisions to the permits.

SPEAKERS: Steve Williams, appellant; Scott Sanchez, ZA; Brett Gladstone, attorney for permit holder; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(9) APPEAL NO. 13-023

VIKKI HART, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	725 Folsom Street. Protesting the issuance on Feb. 21, 2013, to Museum Parc Retail LLC, Permit to Alter a Building (interior tenant improvements; restrooms for men and women; demo interior partition and doors; new offices and conference rooms; MEP under separate permit). APPLICATION NO. 2013/02/12/0021. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-1 (Commissioner Fung dissented) to deny the appeal and uphold the permit on the basis that it is Code compliant and was properly issued.

SPEAKERS: Vikki Hart, appellant; Mari Iki, agent for appellant; Pablo Daroux, agent for appellant; Dee Dee Workman, agent for permit holder; Allen Gee, agent for permit holder; Ben Piper, agent for permit holder; Jeremy Decker, agent for permit holder; Jean Ko, agent for permit holder; Caroline Guibert, attorney for permit holder; Joseph Duffy, DBI; Scott Sanchez, ZA.

PUBLIC COMMENT: Lydia Chang, Clifford Kane and Wayne Goldman spoke in support of the appellant.

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(10) APPEAL NO. 13-034

<p>VICKI SHIPKOWITZ, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent Subject Property Owner: CANDU CAPITAL GROUP LLC</p>	<p>349 Banks Street. Protesting a Release of Suspension Request dated March 11, 2013, addressed to Dept. of Building Inspection Acting Director Tom Hui, asking that the suspension against BPA No. 2012/11/29/5100 be lifted for the reason that the Planning Commission has held a public hearing on the project and voted unanimously to not take DR and approve the project (comply with NOV No. 201275901; legalize construction of deck through the roof at 3rd floor built without benefit of permit). FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 5-0 to deny the appeal and uphold the Release of Suspension Request on the basis that the Zoning Administrator did not err or abuse his discretion.

SPEAKERS: Vicki Shipkowitz, appellant; Ritu Vohra, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Fausto Wolffenbuttel spoke in support of the appellant.

ADJOURNMENT.

There being no further business, President Hwang adjourned the meeting at 11:45 p.m.