

## **BOARD OF APPEALS**

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

#### **MEETING MINUTES - WEDNESDAY, AUGUST 21, 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); Virginia Elizondo, Deputy City Attorney, (OCA); Scott Sanchez, Zoning Administrator (ZA); Anthony Grieco, Chief Building Inspector, Department of Building Inspection (DBI); Ed Walsh, Senior Inspector, Department of Public Health (DPH); Brian Peagler, Special Investigations Division, Gang Task Force, San Francisco Police Department (SFPD); Carla Short, Urban Forester, Department of Public Works, Bureau of Urban Forestry (DPW BUF); 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.

PUBLIC COMMENT: None.

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

SPEAKERS: None.

#### **(3) ADOPTION OF MINUTES:**

Discussion and possible adoption of the August 14, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to adopt the August 14, 2013, 2013 minutes.

SPEAKERS: None.

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PUBLIC COMMENT: None.

(4) **ADDENDUM ITEMS:**

(4a) **JURISDICTION REQUEST:**

**Subject property at 1980 Golden Gate Avenue.** Letter from Raquel Fox, attorney for John Tynan, Kurt Mueller & Jason Thrupp, requestors, asking that the Board take jurisdiction over BPA No. 2012/10/29/2977, which was issued on April 18, 2013; the appeal period ended on May 03, 2013 and the jurisdiction request was filed at the Board office on Aug. 05, 2013. Permit Holder: Urban Green Investments LLC. Project: repair wood frame in basement; replace retaining wall in basement; rebuild one bay window).

**ACTION:** Upon motion by Commissioner Hurtado, the Board voted 5-0 to grant the Jurisdiction Request.

**SPEAKERS:** Raquel Fox, attorney for requestors; John Tynan, co-requestor; Ryan Patterson, attorney for permit holder; Scott Sanchez, ZA; Anthony Grieco, DBI.

PUBLIC COMMENT: None.

(5) **APPEAL NO. 13-061**

NANCY LUO dba "CLEMENT SERVICE CENTER", Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	311 – 12 <sup>th</sup> Avenue. Appealing the REVOCATION on May 13, 2013, of Massage Establishment Permit. DIRECTOR'S CASE NO. MSG-13-23. FOR HEARING TODAY.
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**ACTION:** Upon motion by Commissioner Hurtado, the Board voted 5-0 to deny the appeal and uphold the revocation on the basis that said revocation is more than appropriate under the circumstances.

**SPEAKERS:** Nancy Luo, appellant; Fred Baker, attorney for appellant; Ed Walsh (DPH); Brian Peagler, (SFPD); Virginia Elizondo, (OCA).

PUBLIC COMMENT: None.

(6) **APPEAL NO. 13-077**

TRINITY PROPERTIES, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	1190 Mission Street. Appealing the DENIAL on June 12, 2013, of a request to forgo planting ten (10) street trees adjacent to the subject property as required per Board decision in Appeal No. 12-064. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to grant the appeal and to allow the Department of Public Works Bureau of Urban Forestry to work with the appellant on the planting of these three (3) trees on 8<sup>th</sup> Street and if that is not possible to allow the Department of Public Works, Bureau of Urban Forestry to impose in-lieu fees as per Article 16 of the Public Works Code.

SPEAKERS: Nick Jamuelson, agent for appellant; Steve Ronzone agent for appellant; Carla Short (DPW-BUF).

PUBLIC COMMENT: None.

**(7) APPEAL NO. 13-080**

BETTY WILKINSON, Appellant(s) vs.  DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	1710-1738 Diamond Street. Appealing the ISSUANCE on June 21, 2013, to Joel Roos, Tree Removal Permit (removal of four street trees with four compatible replacement street trees, and requirement to plant four extra trees in open space across from subject property). ORDER NO. 181411. FOR HEARING TODAY.
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ACTION: Withdrawn by appellant.

SPEAKERS: None.

PUBLIC COMMENT: None.

**(8) APPEAL NO. 13-036**

CHINE HUI, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	865 El Camino Del Mar. Protesting the ISSUANCE on March 14, 2013, to Jennifer King & Timothy Fredel, Permit to Alter a Building (demolition of existing solarium on roof; interior renovation; replace existing windows as needed; repair and replace exterior shingles as necessary). APPLICATION NO. 2012/02/06/3645S. PUBLIC HEARING HELD ON MAY 22, 2013. FOR FURTHER CONSIDERATION TODAY. <b>Note: matter continued to allow time for the Planning Dept. to re-calculate the height of the subject building; additional briefing is allowed.</b>
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ACTION: Upon motion by President Hwang, the Board voted 5-0 to uphold the permit with the adoption of revised plans dated July 26, 2013.

SPEAKERS: Kimberly Huangfu, attorney for appellant; Samuel Kwong, agent for appellant; Alice Barkley, attorney for permit holder; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

**(9) APPEAL NO. 13-057**

DAVID & NILOUFER KING, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	4162 & 4164 – 26 <sup>th</sup> Street. Protesting the ISSUANCE on May 08, 2013, to Tony Szeto & Annie Kong, Permit to Alter a Building (3 <sup>rd</sup> story vertical addition and one-story horizontal addition, interior remodel, structural upgrade, plumbing and electrical work). APPLICATION NO. 2012/06/19/2903S. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to continue this matter to September 11, 2013, to allow the permit holder to submit the approved plans to the Board; said plans are due one Thursday prior to the hearing with eleven (11) sets to the Board's office and a copy to appellants.

SPEAKERS: David King, co-appellant; Annie Kong, co-permit holder; Ross Levy, agent for permit holder; Scott Sanchez, ZA; Anthony Grieco, DBI.

PUBLIC COMMENT: Helen Loeser spoke in support of the appellants.

**ITEMS (10A) AND (10B) SHALL BE HEARD TOGETHER:**

**(10A) APPEAL NO. 13-081**

JONATHAN PLOTZKER, Appellant(s) vs.  DEPT. OF BUILDING INSPECTION, Respondent	3166 - 16th Street. Protesting the ISSUANCE on June 14, 2013, to Jack Spade Store, Alteration Permit (interior non-structural demolition of dropped ceiling, lighting, existing non-compliant restroom in vacant retail store; accessibility requirements will be addressed in subsequent tenant improvements per SFBC AB-017). APPLICATION NO. 2013/06/07/8955 FOR HEARING TODAY.
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**(10B) APPEAL NO. 13-082**

JONATHAN PLOTZKER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	3166 - 16th Street. Protesting the ISSUANCE on June 26, 2013, to Jack Spade Store, Alteration Permit (interior non-structural renovation; new partitions, power lighting, mechanical system and new accessible restroom and dressing room; storefront to remain as is with repainting and minor repairs only). APPLICATION NO. 2013/06/24/0254 FOR HEARING TODAY.
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**ACTION:** Upon motion by President Hwang, the Board voted 3-2 (Vice President Lazarus and Commissioner Fung dissented) to grant both appeals and revoke both permits with a finding of negative effect on the surrounding businesses and community and on the basis of the Board's authority pursuant to Article 1, Section 26 of the San Francisco Business and Tax Regulations Code. Lacking the four votes needed to overturn a departmental action and with no further motion made, the permits were upheld by operation of law.

**SPEAKERS:** Jefferson McCarley, agent for appellant; Alicia Gamez, attorney for appellant; Phil Lesser, agent for permit holder; Melissa Xides, agent for permit holder; Marcelyn Staley, permit holder; Scott Sanchez, ZA; Anthony Grieco, DBI.

**PUBLIC COMMENT:** Haley Lynn, River Vargas Culbertson, Breezy Culbertson, Jeff Ray, Andy Blue, Neil Martinson, Kyle Smeallie, Gabriel Medina, Savannah Culbertson, Alan Beatts, Michael Katz, Andrew McKinley, Wayne Whelan, Robert Patterson, Don Alan, Celeste Rogers, Brett Loukspeisor, Jake Barlow, Lauren Brunsuik, Rebekah Kony-Ghadosh and Signy Toquinto spoke in support of the appellant.

Michael Gardner, Paul Stoll, Sasha Wingate, Jonah Buffa, Benny Gold, Nat Cutler and Eric Muhlebale spoke in support of the permit holder.

**ADJOURNMENT.**

There being no further business, President Hwang adjourned the meeting at 10:30 p.m.