

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JANUARY 29, 2014

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

PRESENT: 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); Kevin Guy, Planner, Planning Department (PD); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Carla Short, Urban Forester, Department of Public Works, Bureau of Urban Forestry (DPW BUF); John Kwong, Manager, Department of Public Works Bureau of Street Use and Mapping (DPW BSM); Cynthia Goldstein, Executive Director; Victor Pacheco, Legal Assistant.

ABSENT: President Chris Hwang.

(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) ELECTION OF OFFICERS:

ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to reschedule this item to February 19, 2014 to allow all Board members to participate.

(3) COMMISSIONER COMMENTS & QUESTIONS:

SPEAKERS: None.

(4) ADOPTION OF MINUTES:

Discussion and possible adoption of the January 15, 2014 minutes.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to adopt the January 15, 2014 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

(5) APPEAL NO. 13-157

GRINLING MACCLELLAND, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	276 Francisco Street. Appealing the DENIAL on October 28, 2013, of Tree Removal Permit (removal of one (1) privately-maintained street tree with replacement adjacent to the subject property). ORDER NO. 181790. PUBLIC HEARING HELD ON JAN. 08, 2014. FOR FURTHER CONSIDERATION TODAY. Note: matter was continued to allow time for the DPW to research the feasibility of planting two replacement trees.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (President Hwang absent) to grant the appeal, overturn the department and allow the removal of the tree on the condition that two (2) replacement trees be planted with the species to be selected by the Department of Public Works.

SPEAKERS: Carla Short, DPW BUF; Grinling MacClelland, appellant.

PUBLIC COMMENT: None.

(6) APPEAL NO. 13-133

KAREN GALVES, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1150-1152 Geneva Ave. Protesting the ISSUANCE on October 10, 2013, to Christ C. Christ, Alteration Permit (install half-bath in existing light well). APPLICATION NO. 2013/10/09/8899. PUBLIC HEARING HELD ON DEC. 11, 2013. FOR FURTHER CONSIDERATION TODAY. Note: matter was continued to allow the permit holder to obtain the required consent from adjacent neighbors or for Planning staff to perform neighborhood notification.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (President Hwang absent) to grant the appeal and condition the permit on the incorporation of supplemental drawings dated January 16, 2014 submitted by the permit holder.

SPEAKERS: Karen Galves, appellant; Chris Christ, permit holder.

PUBLIC COMMENT: None.

(7) APPEAL NO. 13-139

JULIO CASTILLO dba "JULIE'S HOT DOGS", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	4111 - 18th Street. Appealing the DENIAL on October 16, 2013, of Mobile Food Facility Permit (denial of permit application due to non-response by applicant; for sale of hot dogs, chips, sodas and energy drinks). APPLICATION NO. 12MFF-0030. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to reject the appeal and to refund the filing fee based on a lack of subject matter jurisdiction.

SPEAKERS: Julio Castillo, appellant; John Kwong, DPW BSM.

PUBLIC COMMENT: Adam Levin spoke in support of the department.

(8) APPEAL NO. 13-159

YSABEL NAVARRO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	480 Amherst Street. Appealing the ISSUANCE on November 05, 2013, of Penalty (imposition of penalty for construction work done without a permit). APPLICATION NO. 2013/11/05/1183 FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to grant the appeal and reduce the penalty to two times the permit fee based on the fact that the appellant never needed to apply for a building permit before and it was an honest mistake.

SPEAKERS: Ysabel Navarro, appellant; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

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(9) APPEAL NO. 13-076

JEFFREY KELLY, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	340 - 31 st Avenue. Protesting the issuance on June 12, 2013, to Recreation & Park Department, Demolition Permit (demolish one story type 5 restroom building) at 340 - 31st Avenue. APPLICATION NO. 2012/10/22/2522. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (President Hwang absent) to reschedule this matter to February 19, 2014 to allow time for the Arts Commission to review the project.

SPEAKERS: Jeffrey Kelly, appellant; Marvin Yee, agent for permit holder.

PUBLIC COMMENT: None.

(10) APPEAL NO. V13-166

NOB HILL NEIGHBORS, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	1601 Larkin Street. Protesting the GRANTING on November 15, 2013, to Pacific Polk Properties, Rear Yard, Usable Open Space and Dwelling Unit Exposure Variances (demolish existing vacant church and surface parking lot, and construct a new five-story over basement building with 27 dwelling units and 32 off-street parking spaces). CASE NO. 2013.0980CEV. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to deny the appeal and uphold the variances on the basis that the Zoning Administrator did not err or abuse his discretion.

SPEAKERS: Linda Chapman, agent for appellant; John McInerney, agent for variance holder; Gordon Eagan, agent for variance holder; Kevin Guy, PD; Scott Sanchez, ZA.

PUBLIC COMMENT: Hiroshi Fukuda spoke in support of the appellant. Lizbeth Gordon, Frank Cannata and Andrew Cussen spoke in support of the Zoning Administrator.

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(11) APPEAL NO. 13-170

SULPICIO MARIANO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	530 Day Street. Protesting the ISSUANCE on October 16, 2013, to Martin Slattery, Alteration Permit (new retaining wall at rear; interior remodel; new roof deck with 30" high parapet; new skylight - revision to PA#201110176930, PA #201307262916, PA #201110176930 to provide compliance with NOV. 200670115). APPLICATION NO. 2013/10/03/8437. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Honda, the Board voted 4-0-1 (President Hwang absent) to deny the appeal and uphold the permit because it is Code compliant.

SPEAKERS: Sulpicio Mariano, appellant; Rodrigo Santos, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(12) CLOSED SESSION:

- a. Public Comment on all matters related to Closed Session.
- b. Vote on whether to hold Closed Session.

A Closed Session has been calendared to discuss the following matter:

Conference with legal counsel regarding anticipated litigation pursuant to California Government Code Section 54956.9(d)(2) and San Francisco Administrative Code Section 67.10(d):

 X As defendant _____ As plaintiff

The following appeals have been filed with the Board of Appeals: The Marsh v. Department of Building Inspection, Planning Department Approval (Appeal No. 13-095), The Marsh v. Department of Building Inspection, Planning Department Approval (Appeal No. 13-096), Alicia Gamez v. Department of Building Inspection, Planning Department Approval (Appeal No. 13-097), Alicia Gamez v. Department of Building Inspection, Planning Department Approval (Appeal No. 13-098). The Project sponsor has argued that the Housing Accountability Act prevents the removal of the fifth floor of the proposed project, which is a condition to a permit tentatively approved by the Board at its December 11, 2013 hearing on the aforesaid appeals. The Board will confer with legal counsel on this matter.

- c. Reconvene in Open Session

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- i. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.
- ii. Vote in open session on whether to disclose any or all closed session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to move into closed session. The Board held a closed session. The Board reconvened in open session. The Executive Director stated that no action was taken in the closed session. Upon further motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to not disclose what was discussed in the closed session on the basis of attorney-client privilege.

SPEAKERS: None.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, Vice President Lazarus adjourned the meeting at 8:15 p.m.