

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, APRIL 24, 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); 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 10, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to adopt the April 10, 2013 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4) APPEAL NO. 13-012

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TRA PHAM dba "FAITH SANDWICH", Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	560 Mission Street. Appealing the denial Jan. 14, 2013, of Mobile Food Facility Permit (sale of Vietnamese sandwiches, various meat rice plates and bowls, vermicelli, spring rolls, sticky rice, Vietnamese Goi, chips, cookies, coffee, tea, soda, juice, and water). APPLICATION NO. 12MFF-0095. FOR HEARING TODAY.
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ACTION: Upon motion by President Hwang, the Board voted 5-0 to grant the appeal, overturn the Department, and issue the permit on the condition that chips and cookies be deleted from the scope of the permit, and on the basis that (1) there are no like foods within a 300 foot radius; and (2) there is no saturation of Mobile Food Facility's in the area.

SPEAKERS: Michael Murtagh, attorney for appellant; John Kwong, DPW BSM.

PUBLIC COMMENT: David Silverglide and Bradford Collins spoke in support of the Department.

(5) APPEAL NO. 13-019

BENNY YEE, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	Multiple locations along 22 nd Avenue and Irving Street. Protesting the issuance on Feb. 12, 2013, to SBC – Pacific Bell Engineering, Utility Excavation Permit. PERMIT NO. 13EXC-0820. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hurtado, the Board voted 3-2 (Commissioner Fung and Commissioner Honda dissented) to deny the appeal and uphold the permit on the basis stated in the DPW Order.

SPEAKERS: George Lee, attorney for appellant; Amanda Monchamp, attorney for permit holder; Marc Blakeman, agent for permit holder; John Kwong, DPW BSM.

PUBLIC COMMENT: William Barnickel, Sylvia Hong, Olivia Singh, Benjamin Lio, Eric Messersmith, Emmy Yu, Dennis Yee, Kai Yi Yu, Richard Aw, Ty Ho, Leon Chow, Amy Lao and William Mui spoke in support of the appellant.

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(6) APPEAL NO. 13-014

BUILD INC., Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	535 Green Street. Appealing a Letter of Determination dated Jan. 17, 2013, addressed to Marsha Garland, regarding whether a liquor distillery with a retail shop and event venue is a permissible use on the basement and ground floor of the subject building. FOR HEARING TODAY.
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ACTION: Upon motion by Vice President Lazarus, the Board voted 4-1 (Commissioner Hurtado dissented) to deny the appeal and uphold the Zoning Administrator on the basis that he did not err or abuse his discretion.

SPEAKERS: Michael Yarne, agent for appellant; Marsha Garland, determination holder; Scott Sanchez, ZA.

PUBLIC COMMENT: Jeffry Gregory spoke in support of the Zoning Administrator.

(7) APPEAL NO. 13-015

ROD HANDELAND, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1269 Lombard Street. Protesting the issuance on Jan. 25, 2013, to Lombard Property Company, Permit to Alter a Building (comply with NOV No. 201282001; replace existing retaining walls; new wall as per plans; landscape; deck). APPLICATION NO. 2013/01/25/8785. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to grant the appeal and deny the permit on the basis that the designated property owner and parcel information are incorrect.

SPEAKERS: Ron Handeland, appellant; Tom Burwell, agent for permit holder; Charles Bloszies, agent for permit holder; Rod Gonzales, agent for permit holder; Jason Anderlite, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Frank Morrow spoke in support of the appellant.

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(8) APPEAL NO. 13-017

<p>LUCKY GROUP INVESTMENTS LLC, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent</p>	<p>4871- 4873 Mission Street. Appealing a Notice of Violation & Penalty dated Feb. 06, 2013, addressed to Lucky Group Investments LLC, regarding the operation of a Fringe Financial Service use (dba Lucky Money Check Cashing) at the subject property without the required Conditional Use Authorization, in violation of the Planning Code. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Fung, the Board voted 2-3 (President Hwang, Vice President Lazarus and Commissioner Hurtado dissented) to grant the appeal and overturn the Notice of Violation & Penalty on the basis that the Zoning Administrator erred in finding the use as nonconforming. Lacking the three votes needed to pass, the motion failed. Upon further motion by Commissioner Fung, the Board voted 3-2 (President Hwang and Vice President Lazarus dissented) to continue this matter until June 19, 2013 to allow the appellant time to file for a Conditional Use authorization.

SPEAKERS: Charles Smith, attorney for appellant; Gabriel Ng, agent for appellant; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Hwang adjourned the meeting at 10:00 p.m.