

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY, MAY 15, 2024

REGULAR MEETING (IN-PERSON AND REMOTE ACCESS VIA ZOOM)

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

PRESENT: President Jose Lopez, Vice President Alex Lemberg, Commissioner Rick Swig, and Commissioner John Trasviña.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Tina Tam, Deputy Zoning Administrator, Planning Department (PD); Neville Pereira, Deputy Director of Permit Services, Department of Building Inspection (DBI); Javier Rivera, Construction Permits Supervisor, San Francisco Public Works, Bureau of Street Use and Mapping (SFPW-BSM); Nicholas Crawford, Acting Superintendent, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

ABSENT: Commissioner J.R. Eppler

(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 and remote public participation may be limited to two minutes per person. If it is demonstrated that public comment and remote public participation will cumulatively exceed 15 minutes, the President may continue Public Comment and/or remote public participation to another time during the meeting.

SPEAKERS: Kevin Roach asked the Board for more affordable housing for people with disabilities. He asked the Board to consider office space downtown for this use.

An unidentified caller asked the Board members to divulge any contacts or communications they might have had, prior to the hearing, with any appellants, respondents, or their allies, including any contacts with City representatives.

Bunny stated she did not trust that the City is doing the right thing for trees. She wants a clearer public process and for the departments to be transparent and consistent.

Michael Nulty referenced the Board's previous meeting when there was a discussion about proposed Rule changes. He stated that it was frustrating because not everyone has time to attend every meeting. He stated that he did not believe any changes were necessary.

John Nulty stated that there should be more than one meeting before Rule changes are implemented, because this would give the public an opportunity to review the proposed changes.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the May 8, 2024 minutes.

ACTION: Upon a motion by Commissioner Trasviña, the Board 4-0-1 (Commissioner Eppler absent) to adopt the May 8, 2024 hearing minutes.

PUBLIC COMMENT: None.

(4) APPEAL NO. 23-067

<p>MIHAL EMBERTON, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF STREET USE & MAPPING, Respondent</p>	<p>201 Ashton Avenue. Appealing the ISSUANCE on December 1, 2023, to Mihal Emberton, of a Public Works Order (DENIAL of an application for a Minor Sidewalk Encroachment Permit. All items encroaching the public right-of-way shall be deconstructed and removed from the public right-of-way. The applicant did not provide updated plans with the following conditions and alterations: reduction of the fence height to three feet; three feet of clearance around the streetlight pole and box on Holloway Ave.; three feet path of travel between the trees and fence on Holloway Avenue and the removal of the approximate 10 ft x 10 ft cedar pergola and the propane fire table. The plans also need to show all features in the right-of-way such as the streetlight and box, trees, location of pavers, location of landscaping, and the altered location of the fences). PERMIT NO. 21MSE-00688. FOR FURTHER CONSIDERATION. Note: On February 7, 2024, upon motion by Vice President Lemberg, the Board voted 4-0-1 (Commissioner Eppler absent) to continue this matter to May 15, 2024, so that the appellant can get a survey by a licensed surveyor. The Board further directed that the survey be recorded with the County Surveyor's Office and provided to Public Works by May 2, 2024.</p>
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ACTION: Upon a motion by Vice President Lemberg, the Board voted 4-0-1 (Commissioner Eppler absent) to continue this Item to June 26, 2024, so that: (1) SFPW can get some internal guidance regarding the flexibility of the department to accept certain exceptions to their order dated December

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1, 2023, and (2) SFPW can work with the property owner and the Planning Department on these issues.

SPEAKERS: Mihal Emberton, appellant; Javier Rivera, SFPW-BSM; Tina Tam, PD.

PUBLIC COMMENT: Michael Nulty spoke in support of the appellant.

(5) APPEAL NO. 23-058

<p>JOSHUA KLIPP, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>1701 Post Street.</p> <p>Appealing the ISSUANCE on November 3, 2023, to SF Recreation & Parks Department, of a Public Works Order (APPROVAL to remove two street trees (flowering cherry trees) at 1701 Post Street with replacement in-kind on the 1500 block of Laguna Street; Rec & Park applied to remove the two trees by recommendation for Vision Zero in coordination with the capital improvement project for Japantown Plaza; the goal is to prevent plantings from blocking critical driver safety lines or creating other safety issues).</p> <p>ORDER NO. Order 208816.</p> <p>FOR FURTHER CONSIDERATION.</p> <p>Note: On January 17, 2024, Commissioner Trasviña made a motion to grant the appeal and revoke the determination on the basis that: (1) the order lacks an adequate factual basis to establish that there is a public safety issue which warrants the removal of the trees, and (2) the removal of these trees is inconsistent with the City policy and goal of increasing the tree canopy. Thereafter, President Lopez moved to amend Commissioner Trasviña’s motion to state that the Board would continue the matter to allow the parties to reach an agreement on the planting of additional replacement trees for the project; with the further clarification that it should not be assumed that the subject trees would be removed. President Swig seconded this motion. The Board voted 4-1 (Commissioner Trasviña dissented) to amend the motion as specified by President Lopez. Upon motion by President Lopez, the Board voted 4-1 (Commissioner Trasviña dissented) to continue this matter to March 13, 2024, to allow the parties to reach an agreement on the planting of additional replacement trees for the project; with the further clarification that it should not be assumed that the subject trees would be removed. On March 7, 2024, the parties requested that the matter be rescheduled to May 15, 2024, so that they could have more time to work on a settlement agreement.</p>
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ACTION: Upon motion by President Lopez, the Board voted 4-0-1 (Commissioner Eppler absent) to grant the appeal and issue the order on the condition that it be revised to require the adoption of the agreement, dated May 14, 2024, submitted by the parties for the hearing. This motion was made on the basis that the agreement addresses the issues raised in the appeal.

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SPEAKERS: Joshua Klipp, appellant; Nicholas Crawford, SFPW-BUF.

PUBLIC COMMENT: An unidentified caller, Bunny, Michael Nulty and John Nulty were opposed to the removal of the two trees.

(6) APPEAL NO. 24-022

100 MISSION OWNER LLC, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent	100 Mission Street (five trees on Mission Street frontage and five trees are on the same property at 60 Spear Street). Appealing the ISSUANCE on February 27, 2024, to 100 Mission Owner LLC, of a Public Works Order (DENIAL of an application to remove ten street trees with replacement of eight trees. The applicant seeks removal for the purpose of construction repairs to address water intrusion into the building). ORDER NO. 210167. FOR HEARING TODAY.
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ACTION: Upon motion by President Lopez, the Board voted 4-0-1 (Commissioner Eppler absent) to continue this matter to June 26, 2024, for the following reasons: (1) to get more information from BUF as to why the tree removal application was denied by the hearing officer, (2) to get an answer from the SFMTA as to whether they can remove the Muni signal pole on Spear Street so that two more trees can be planted at this location, (3) to obtain a written statement from the appellant and BUF on whether this project is considered maintenance or development, (4) for BUF to share the development versus maintenance checklist used when evaluating projects, and (5) to get a report from BUF on the Basal Area replacement cost of the trees.

SPEAKERS: Chloe Angelis, attorney for appellant; Nicholas Crawford, SFPW-BUF.

PUBLIC COMMENT: Joshua Klipp, David Osgood, Bunny, John Nulty and Michael Nulty were opposed to the removal of the trees.

(7) APPEAL NO. 24-024

ALI SHAFIE, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	870 North Point Street. Appealing the ISSUANCE on February 23, 2024, to Sean Olson, of an Alteration Permit (legalize mini-split heat pump installation for existing ground floor office space; comply with NOV No. 202313790). PERMIT NO. 2024/02/20/6193. FOR HEARING TODAY.
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ACTION: Upon motion by Vice President Lemberg, the Board voted 4-0-1 (Commissioner Eppler absent) to deny the appeal and uphold the permit on the basis that it was properly issued.

SPEAKERS: Ali Shafie, appellant; Sean Olson, permit holder; Richard Kettell, agent for permit holder; Neville Pereira, DBI.

PUBLIC COMMENT: Marc Bruno provided DBI's contact information for people with complaints about a permit.

(8) APPEAL NO. 24-023

MARC BRUNO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	472 Union Street. Appealing the ISSUANCE on March 1, 2024, to Paul Boschetti, of an Alteration Permit (repair stairway (less than 50%) at rear, repair door in back; repair all items on Notice of Violation, Items Nos. 6 and 7, Complaint No. 202305216 to comply for violation; back stairway 50%). PERMIT NO. 2024/03/01/6943. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Swig, the Board voted 4-0-1 to grant the appeal and issue the permit on the condition it be revised to require that the permit holder post notice of the work 48 hours before it commences.

SPEAKERS: Marc Bruno, appellant; Jeremy Paul, agent for permit holder; Neville Pereira, DBI.

PUBLIC COMMENT: Elizabeth Radtke read a letter on behalf of Linda Federowicz, a tenant of the building who is in support of the permit holder.

Mary Bugarin spoke in support of the appellant.

ADJOURNMENT.

There being no further business, President Lopez adjourned the meeting at 9:43 p.m.

The supporting documents for this meeting can be found at the following link:
<https://www.sf.gov/meeting/may-15-2024/board-appeals-hearing-may-15-2024>

A video of this meeting, can be found at the following link:
https://sanfrancisco.granicus.com/player/clip/46155?view_id=6&redirect=true