

**BOARD OF APPEALS**

**CITY & COUNTY OF SAN FRANCISCO**

**MEETING MINUTES – WEDNESDAY, OCTOBER 23, 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: Vice President John Trasviña, Commissioner Rick Swig and Commissioner J.R. Eppler.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Corey Teague, Zoning Administrator, Planning Department (PD); Kevin Birmingham, Acting Chief Building Inspector, Department of Building Inspection (DBI); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

ABSENT: President Jose Lopez.

(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: None.

(2) **COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: Vice President Trasviña welcomed everyone to the meeting, particularly the youngest people present. He noted that President Lopez was absent and that any action taken by the Board would require three votes. He stated that if there was a 2-1 vote to take action, a matter would be continued for the sake of bringing back the potentially deciding vote (by the absent commissioner). Vice President Trasviña further stated that he wanted to make sure the parties would get a complete hearing of their presentations to the Board.

PUBLIC COMMENT: None.

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

Discussion and possible adoption of the October 9, 2024 minutes.

**ACTION:** Upon motion by Commissioner Eppler, the Board voted 3-0-1 (President Lopez absent) to adopt the October 9, 2024 minutes.

**PUBLIC COMMENT:** None.

### **(4) REHEARING REQUEST FOR APPEAL NO. 24-046**

**Subject property at 763 Lakeview Avenue.** Peter Holyoya, Appellant, is requesting a rehearing of Appeal No. 24-046, PETER HOLOYDA vs. DEPT. OF BUILDING INSPECTION, PLANNING DEPT. APPROVAL, decided September 25, 2024. At that time, upon motion by Commissioner Swig, the Board voted 4-0 to deny the appeal and uphold the permit on the basis that it was properly issued. **Permit Holder:** Carlos Villicana. **Permit Description:** Revision to Permit Application # 202206035607; adding a standing deck to attached Accessory Dwelling Unit (ADU) with spiral stair leading up to the deck (single family + ADU). **Permit No.:** 2023/08/25/5349.

**ACTION:** Upon motion by Commissioner Swig, the Board voted 3-0-1 (President Lopez absent) to deny the rehearing request on the basis that there was neither new evidence nor manifest injustice.

**SPEAKERS:** Peter Holyoya, requestor; Claudia Villicana, permit holder; Corey Teague, PD; Kevin Birmingham, DBI.

**PUBLIC COMMENT:** None.

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**(5) APPEAL NO. 24-053**

<p>CHRIS CALLAWAY, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>500 Laguna Street</p> <p>Appealing the ISSUANCE on August 26, 2024, of a Letter of Determination (the Zoning Administrator determined that the Planning Department may not accept a Conditional Use Authorization (CUA) application for a Cannabis Retail Use (CRU) unless a Cannabis Permit application is referred by the Office of Cannabis (OOC); Section 6(f) of the OOC Rules states that only a single active Cannabis Retail permit application will be referred to the Planning Department and any subsequent applications within 600 feet will be held in abeyance; the CUA for Cannabis Retail at 500 Laguna Street is currently active, but requires either extension or revocation by the Planning Commission; and the Planning Department has not received a referral from the OOC for the requestor's alternative Cannabis Retail location that is within 600 feet of 500 Laguna Street).</p> <p>RECORD NO. 2023-011713ZAD FOR HEARING TODAY</p>
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**ACTION:** Upon motion by Commissioner Eppler, the Board voted 3-0-1 (President Lopez absent) to deny the appeal and uphold the Letter of Determination (LOD) on the basis that the Zoning Administrator did not err or abuse his discretion, and the LOD was properly issued.

**SPEAKERS:** Melinda Sarjapur, attorney for appellant; Chris Callaway, appellant; Corey Teague, PD.

**PUBLIC COMMENT:** Rebecca Fox, Tiffany, and Nate Landau spoke in support of the appellant.

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**(6) APPEAL NO. 24-051**

<p>MIHAL EMBERTON, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>201 Ashton Avenue. Appealing the ISSUANCE on August 26, 2024, to Mihal Emberton, of a Variance Decision (The proposal is to legalize the construction of a trellis structure at the front of the home that is approximately 11 feet tall and covers an area of approximately 140 square feet; the proposed trellis is within the required front setback, and therefore a variance is required; the Zoning Administrator DENIED the application for a front setback variance as it does not meet the five findings required by Planning Code Section 305(c)). CASE NO. 2022-001463VAR. FOR HEARING TODAY.</p>
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**ACTION:** Upon motion by Commissioner Swig, the Board voted 2-1-1 (Vice President Trasviña dissented and President Lopez absent) to deny the appeal and uphold the Variance Decision (denying the variance) on the basis that the five findings required by Planning Code Section 305(c) have not been met. Lacking the three votes needed to pass, the motion failed. No further motions were made by the commissioners, so the Variance Decision was upheld by operation of law.

**SPEAKERS:** Mihal Emberton, appellant; Corey Teague, PD.

**PUBLIC COMMENT:** None.

**(7) APPEAL NO. 24-052**

<p>320 ALEMANY LLC, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>316-318, 320, 322, &amp; 326-328 Alemany Boulevard. Appealing the ISSUANCE on August 23, 2024, to 320 Alemany LLC, of a Letter of Determination (Each of the four properties had alterations without the benefit of a building permit and created 17 unauthorized dwelling units (UDUs). The property owner submitted a proposal to the Planning Department to use the State Density Bonus Program to retain 31 or the existing dwelling units, both authorized and unauthorized, across all four properties. The request seeks various determinations regarding the Department's application of California Government Code Section 65915 (State Density Bonus Program). The Zoning Administrator determined that the proposal is not eligible for the density bonus under Government Code Section 65915.). RECORD NO. 2024-004246ZAD. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Swig, the Board voted 3-0-1 (President Lopez absent) to deny the appeal and uphold the Letter of Determination (LOD) on the basis that the Zoning Administrator did not err or abuse his discretion, and the LOD was properly issued.

SPEAKERS: Andrew Zacks, attorney for appellant; Jack Tseng, agent for appellant; Corey Teague, PD.

PUBLIC COMMENT: Jaqueline Beltron spoke in support of the appellant.

### **ADJOURNMENT.**

There being no further business, Vice President Trasviña adjourned the meeting at 8:57 p.m.

The supporting documents for this meeting can be found at the following link:

<https://www.sf.gov/meeting/october-23-2024/board-appeals-hearing-october-23-2024>

A video of this meeting, can be found at the following link:

[https://sanfrancisco.granicus.com/player/clip/47388?view\\_id=6&redirect=true](https://sanfrancisco.granicus.com/player/clip/47388?view_id=6&redirect=true)