

# BOARD OF APPEALS

## CITY & COUNTY OF SAN FRANCISCO

### AGENDA FOR REGULAR MEETING - WEDNESDAY, OCTOBER 23, 2024

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

#### THE PUBLIC MAY JOIN THE MEETING IN-PERSON, BY COMPUTER (ZOOM) OR TELEPHONE [ACCESS INSTRUCTIONS CAN BE FOUND AFTER THE AGENDA ITEMS]:

Access by Computer:

<https://us02web.zoom.us/j/81258014534>

Access by Telephone:

Call: 1-669-900-6833

Webinar ID: 812 5801 4534

#### (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.

#### (2) COMMISSIONER COMMENTS & QUESTIONS

#### (3) ADOPTION OF MINUTES

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

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

**Subject property at 763 Lakeview Avenue.** Peter Holoyda, 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.

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

<p>MIHAL EMBERTON, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>201 Ashton Avenue.</p> <p>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)).</p> <p>CASE NO. 2022-001463VAR. FOR HEARING TODAY.</p>
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**(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.</p> <p>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.).</p> <p>RECORD NO. 2024-004246ZAD. FOR HEARING TODAY.</p>
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**ADJOURNMENT.**

**Note:** The materials for each item on this agenda may include some or all of the following documents: Preliminary Statement of Appeal; Departmental determination being appealed; briefs submitted by Appellants, Permit Holders, Respondent Departments or Other Parties; submittals by members of the public; and correspondence. These items, and any materials related to an item on this agenda that are distributed to the Board members at the hearing, are available for public inspection at the Board's website <https://sf.gov/departments/board-appeals> and upon request by emailing the Board Office [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org). Please call 628-652-1150 if you have any questions concerning this agenda.

Date posted: **October 18, 2024**

**MEMBERS OF THE BOARD OF APPEALS**

<p><b>JOSE LOPEZ</b></p>	<p><b>PRESIDENT</b></p>
<p><b>JOHN TRASVIÑA</b></p>	<p><b>VICE PRESIDENT</b></p>
<p><b>RICK SWIG</b></p>	<p><b>COMMISSIONER</b></p>
<p><b>J.R. EPPLER</b></p>	<p><b>COMMISSIONER</b></p>
<p><b>(VACANT)</b></p>	<p><b>COMMISSIONER</b></p>

## **REGULAR MEETING, BOARD OF APPEALS, OCTOBER 23, 2024 - PAGE 4**

Members of the Board will attend the meeting in-person, and members of the public are invited to attend in-person, by computer, or by telephone as described above. To ensure full public participation in the Board's adjudicatory hearings, the Board will not impose a time limit on the total amount of remote public participation for any agenda items at this meeting. Each member of the public participating remotely will be subject to the three-minute, or if applicable two-minute, time limit noted above.

### **INSTRUCTIONS FOR REMOTE PUBLIC ACCESS VIA TELEPHONE OR ZOOM**

**By Telephone:** Call the phone number and enter the webinar ID listed at the top of the agenda. When you are ready to speak, please dial \*9 and this will show a raised hand. Staff will allow you to speak when it is your turn. You may have to dial \*6 to unmute yourself.

**By Zoom:** After you join the Zoom meeting, go to the bottom of the screen and click the tab that says "Reactions". You can then click on the option that says, "Raise Hand". When you are done speaking, you can select "Lower Hand" from the "Reactions" tab.

### **PROCEDURE AT HEARINGS**

Except when the Presiding Officer finds good cause to order the presentations otherwise, the order of presentation of an appeal shall be as follows: (a) the appellant shall speak first and shall be allowed seven minutes to present relevant testimony and evidence. Then the permit holder, representatives of the department, board, commission or person from whose order the appeal is taken, and/or other parties, shall be allowed seven minutes for presentation of relevant testimony and evidence. Three minutes for rebuttal shall be provided to all parties in this same order; (b) the Board may request a departmental response at its own discretion. For rehearing requests and jurisdiction requests, each party shall be allowed three minutes to present testimony and evidence, with no rebuttal.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

Those members of the public who intend to testify about a particular appeal and wish to have the Board give their testimony evidentiary weight for purposes of deciding the appeal are asked to take an oath. Please note that any member of the public may speak without being sworn-in pursuant to their rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code).

### **SPECIAL NOTES**

The Board reserves the right not to start an item on the agenda after 10:00 p.m.

It is possible that the Board may experience technical challenges that interfere with the ability of members of the public to participate in the meeting remotely. If that happens, the Board will attempt to correct the problem but may continue with the hearing as long as the parties to an appeal are able to participate in the meeting, and members of the public attending in-person, as well as anyone who received a disability accommodation to offer remote public comment, are able to observe and offer public comment.

## **REGULAR MEETING, BOARD OF APPEALS, OCTOBER 23, 2024 - PAGE 5**

If the Board continues a matter to a specific date that is announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at (628) 652-1150 for scheduling or other information during regular business hours or visit our website at [www.sfgov.org/boa](http://www.sfgov.org/boa).

The complete Rules of the Board are available for review on our website.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org), no later than 4:30 p.m. one Thursday prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org). Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. Please note that names and addresses included in these submittals will become part of the public record. Submittals may be made anonymously.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled the day of hearing or are taken out of order to accommodate special needs. The Board urges all parties to be present at the hearing from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

### **PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES**

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

### **ACCESSIBILITY INFORMATION**

If you need technical assistance or would like to receive instruction on how to access the meeting via Zoom, please email or call the Board Office: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150.

To obtain a disability-related modification or accommodation, including auxiliary aids or services to participate in the meeting, please contact the Board office at least 48 hours before the meeting at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150.

American sign language interpreters, translation services and/or sound enhancement will be available upon request by contacting Board staff at (628) 652-1150 at least 48 hours prior to the hearing.

## **REGULAR MEETING, BOARD OF APPEALS, OCTOBER 23, 2024 - PAGE 6**

Intérpretes de lenguaje de señas americano, servicio de traducción y/o mejoramiento del sonido estará disponible a petición contactando con personal de la Junta al (628) 652-1150 por lo menos 48 horas antes de la audiencia.

美国手语翻译, 翻译服务和/或声音增强将可在聆讯前48小时通过联系652-1150局人员要求.

Ang mga tagapagsalin sa lenggwaheng pasenyas, mga serbisyong pagsasalin at/o mga gamit upang pabutihin ang pakikinig ay maaaring hilingin sa Board Staff sa (628) 652-1150 sa hindi bababa na 48 oras bago mag hearing.

### **KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: by mail to Administrator, Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-5163; or by e-mail at [sotf@sfgov.org](mailto:sotf@sfgov.org). Citizens interested in obtaining a free copy of the Sunshine Ordinance may request a copy from the Sunshine Ordinance Task Force Administrator or by printing Chapter 67 of the San Francisco Administrative Code on the internet at [www.sfgov.org/sunshine](http://www.sfgov.org/sunshine).

### **LOBBYING ACTIVITY/CAMPAIGN CONTRIBUTIONS**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102; telephone: (415) 252-3100; email [ethics.commission@sfgov.org](mailto:ethics.commission@sfgov.org); web site [www.sfgov.org/ethics](http://www.sfgov.org/ethics).

Under Campaign and Governmental Conduct Code Section 1.127, no person or entity with a financial interest in a land use matter pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors, may make a campaign contribution to a member of the Board of Supervisors, the Mayor, the City Attorney, or a candidate for any of those offices, from the date the land use matter commenced until 12 months after the board or commission has made a final decision or any appeal to another City agency from that decision has been resolved. For more information about this restriction, visit [sfethics.org](http://sfethics.org).

**SUGGESTIONS TO IMPROVE EFFICIENCY**

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Board staff, at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or (628) 652-1150. A customer satisfaction survey form is available at the meetings, the Board office, and on the Board's web site, [www.sfgov.org/boa](http://www.sfgov.org/boa).

**ONLINE VIDEO STREAMING OF MEETINGS**

Online video streaming and audio and video file downloads of Board meetings are available at: [https://sanfrancisco.granicus.com/ViewPublisher.php?view\\_id=6](https://sanfrancisco.granicus.com/ViewPublisher.php?view_id=6).

**BOARD OF APPEALS  
CITY & COUNTY OF SAN FRANCISCO**  
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San Francisco, California 94103

The Board's physical office is open to the public by appointment only. Please email [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) or call 628-652-1150 if you would like to meet with a staff member.