

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, DECEMBER 14, 2022

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

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

PRESENT: President Rick Swig, Commissioner Alex Lemberg, Commissioner John Trasviña and Commissioner J.R. Eppler.

Jon Givner, Deputy City Attorney, Office of the City Attorney (CAT); Corey Teague, Zoning Administrator, Planning Department (PD); Matthew Greene, Chief Building Inspector, Department of Building Inspection (DBI); Chris Buck, Urban Forester, San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF); Julie Rosenberg, Executive Director; Alec Longaway, Legal Assistant.

ABSENT: Vice 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 may be limited to two 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.

(2) **COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: President Swig wished the commissioners a Happy Holidays and expressed his thanks for the commissioners' participation on the Board. He further thanked the public for their patience and participation with the proceedings. He also expressed his thanks to the various city departments that put a lot of work into sorting out the various issues that go before the Board and gave thanks to the Board's city attorney advisors and the Executive Director.

Commissioner Lemberg echoed President Swig's comments and especially thanked members of the public for their participation in the public process. They noted that that the public's participation contributed to the greater good in San Francisco governance. They further wished everyone a Happy Holiday season.

Commissioner Trasviña thanked the public for their participation in the hearing process. He noted the high attendance at the hearing and stated that it was a testament to the people of San Francisco that they cared about what was going on and expressed faith in the deliberative process. He also thanked President Swig for his guidance and leadership.

Commissioner Eppler echoed everything said by his fellow commissioners. As the newest member on the Board, he thanked the commissioners, deputy city attorney and Executive Director for making him feel welcome. He appreciated everyone's efforts to get him up to speed so that the Board could efficiently and effectively administer their roles on behalf of the public. He further wished everyone a Happy Holidays.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the December 7, 2022 minutes.

ACTION: Upon motion by Commissioner Eppler, the Board voted 4-0-1 (Vice President Lopez absent) to adopt the December 7, 2022 meeting minutes.

PUBLIC COMMENT: None.

(4) APPEAL NO. 22-080

WATERFRONT ACTION COMMITTEE, Appellant(s)	955 Sansome Street. Appealing the ISSUANCE on October 28, 2022, to Waterfront Action Committee, of a Letter of Determination (the Zoning Administrator has determined that the subject lot is developed to less than 20% of the lot's principally permitted buildable gross floor area as determined by height limits, rear yard requirements, and required setbacks per Planning Code Section 206.3(b)(8) and is eligible for the HOME-SF program). RECORD NO. 2022-008802ZAD. FOR HEARING TODAY.
vs.	
ZONING ADMINISTRATOR, Respondent	

ACTION: Upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Vice President Lopez absent) to deny the appeal and uphold the determination, on the basis that the Zoning Administrator did not err or abuse his discretion and the determination was properly issued.

SPEAKERS: Richard Drury, attorney for appellant; Tom Dadon, agent for appellant; Dr. Lawrence Karp, agent for appellant; John Kevlin, attorney for property owner (955 Sansome LLP); Corey Teague, PD.

PUBLIC COMMENT: Allen Fontez, Constance Deng, Nick Ferris and Theresa Flandrich spoke in support of the appellant.

(5) APPEAL NO. 22-079

JOSHUA KLIPP, Appellant(s) vs. SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent	401 Parnassus Avenue. Appealing the ISSUANCE on October 20, 2022, to UCSF, of a Public Works Order (APPROVAL to remove 28 street trees with replacement; UCSF will demolish an existing hospital building and the new hospital building will require extensive health-care specific utilities which will require removal of the trees). ORDER NO. 207226. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Trasviña, the Board voted 4-0-1 (Vice President Lopez absent) to continue this Item to February 8, 2023, so that UCSF, BUF, and the appellant can collaborate on a replacement tree plan.

SPEAKERS: Commissioner Eppler stated that he previously served on the UCSF Community Advisory Group, but that he stepped out of that role in March 2022. He further stated that he discussed this former role with the city attorney, and the city attorney confirmed that Commissioner Eppler did not have a conflict hearing the matter; Joshua Klipp, appellant; Christine Buckley, agent for determination holder, Morgan Vaisset-Fauvel, agent for determination holder; Charles Olson, attorney for determination holder; Chris Buck, BUF.

PUBLIC COMMENT: Irma Lewis stated that she supports construction of the new hospital. She indicated that she is a member of the UCSF Community Advisory Committee focused on land use. She further stated that Commissioner Eppler may have a conflict given that he was on a 5-person leadership team for a UCSF investment in the Dogpatch area. Ms. Lewis requested that the appeal be approved or continued to close the large gap between DPW and the community. Kathy Howard, John Nulty, Roz Arbel, Michael Nulty and Mary Klipp spoke in support of the appellant.

ITEMS (6A) AND (6B) SHALL BE HEARD TOGETHER

(6A) APPEAL NO. 22-076

KIERAN MAHER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	146 23rd Avenue. Appealing the ISSUANCE on October 5, 2022, to Thomas Monahan, of an Alteration Permit (add structural beam and structural piers; replace existing wood column and piers; replace existing slab and reinforce foundation). PERMIT NO. 2022/09/13/2353. FOR HEARING TODAY.
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(6B) APPEAL NO. 22-077

<p>KIERAN MAHER, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>146 23rd Avenue. Appealing the ISSUANCE on October 31, 2022, to Thomas Monahan, of an Alteration Permit (structural upgrade to beam, add structural piers, replace wood columns and piers, replace existing slab, reinforce the foundation, minor plumbing and electrical work; excavation of two feet for additional head height in middle section; to comply with Complaint No. 202296964). PERMIT NO. 2022/10/28/5449. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Vice President Lopez absent) to grant the appeals and issue the permits on the condition they be revised to require: (1) DBI shall perform a Start Work inspection prior to work commencing under the appealed permits, (2) the permit holder shall have site monitoring in place for both adjacent properties on or before DBI's Start Work inspection, (3) the permit holder shall have a soils engineer perform a soil compaction test and prepare a report with the findings of the test; this report shall be shared with DBI and the appellant, and (4) the soil compaction work that must be performed in response to the Notice of Violation must be completed to DBI's satisfaction prior to any work being performed under the permits. This motion was made on the basis that these conditions improve the safety of the project.

SPEAKERS: Scott Emblidge, attorney for appellant; Kieran Maher, appellant; Michael Betz, attorney for permit holder; Lauren Monahan, permit holder; Tom Monahan, permit holder; John Egan, agent for permit holder; Caroline Chase, attorney for permit holder; Matthew Greene, DBI.

PUBLIC COMMENT: Nina Lysenko and Bradley Solomon spoke in support of the appellant.

ITEMS (7A), (7B) & (7C) SHALL BE HEARD TOGETHER

(7A) APPEAL NO. 22-078

<p>MARGARET BLOOMFIELD and MICHAEL BLOOMFIELD, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>524 Lake Street. Appealing the ISSUANCE on August 2, 2022, to Greg Germano, of an Alteration Permit (remove old cabinets and replace with new cabinets and countertop with sink, disposal, backsplash, new flooring, paint, lighting, and counter outlets). PERMIT NO. 2022/07/28/9473. FOR HEARING TODAY. Note: On November 2, 2022, this permit was the subject of Jurisdiction Request No. 22-7. At that time, upon motion by Commissioner Lemberg, the Board voted 2-3 (President Swig, Vice President Lopez and Commissioner Trasviña dissented) to grant the request on the basis that there was a substantial possibility that there was a city error in posting the permit information on DBI's website which caused the requestors to be late in filing an appeal. Lacking the four votes needed to pass, the motion failed. After the matter had been decided and while the commissioners were hearing appeals on related permits, upon motion by Commissioner Trasviña, the Board voted 5-0 to reconsider the previous vote for Jurisdiction Request No. 22-7. Upon motion by Commissioner Lemberg, the Board voted 4-1 (President Swig dissented) to grant the appellants' request for the Board to take jurisdiction over the permit, on the basis that the city inadvertently caused the requestors to be late in filing the appeal.</p>
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(7B) APPEAL NO. 22-068

MARGARET BLOOMFIELD and MICHAEL BLOOMFIELD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	524 Lake Street. Appealing the ISSUANCE on September 27, 2022, to Greg Germano, of an Electrical Permit (install electrical outlets and lighting for kitchen remodel and add one outlet and lighting in bathroom). PERMIT NO. EW2022/0927/6277. FOR FURTHER CONSIDERATION Note: On November 2, 2022, upon a motion by Vice President Lopez, the Board voted 5-0 to continue this matter to December 14, 2022.
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(7C) APPEAL NO. 22-069

MARGARET BLOOMFIELD and MICHAEL BLOOMFIELD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	524 Lake Street. Appealing the ISSUANCE on September 27, 2022, to Greg Germano, of a Plumbing Permit (Kitchen and laundry remodel; new gas from meter to kitchen and laundry; bathroom remodel). PERMIT NO. PP2022/0927/270. FOR FURTHER CONSIDERATION. See Note in (7B), above.
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ACTION: Upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Vice President Lopez absent) to grant the appeals and uphold the permits on the condition that the permits be revised to require: (1) all work shall take place between the hours of 10:00 am to 5:00 pm, Monday through Friday, excluding holidays (i.e. no work on weekends or holidays), (2) the permit holder and his contractors shall use best efforts to do the work as quietly as feasible (for example, no playing loud music), and (3) the permit holder and his contractors shall use fans to remove fumes during work hours when doing work that generates fumes. This motion was made based on the agreement of the parties.

SPEAKERS: None.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 11:01 p.m.

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

<https://sf.gov/meeting/december-14-2022/board-appeals-hearing-december-14-2022>

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

https://sanfrancisco.granicus.com/player/clip/42667?view_id=6&redirect=true&h=41137f2a09a22c0ea617b64614630404