

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES – WEDNESDAY, FEBRUARY 8, 2023

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, Vice President Jose Lopez, 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); Ryan Casey, Department of Public Health (DPH); Julie Rosenberg, Executive Director; Alec Longaway, 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. 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 acknowledged that the hearing room was full of people, and he stated that he was glad everyone was healthy. He further thanked the public for attending the hearing.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the February 1, 2023 minutes.

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to adopt the February 1, 2023, hearing minutes as amended by Commissioner Lemberg. The amendment added the last name "Pritzker" to the speaker named "Joby" under Item 5.

PUBLIC COMMENT: None.

(4) APPEAL NO. 22-090

<p>WILLIAM WEIL and IOANNA TZIRI, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>244 Hartford Street. Appealing the ISSUANCE on December 2, 2022, to Margaret Kishibe, of an Alteration Permit (revision to permit application 2020/0921/4636 of 3rd floor remodel; minor layout change and add shear wall detail and correct existing joist span direction). PERMIT NO. 2022/11/16/6647. FOR FURTHER CONSIDERATION Note: On February 1, 2023, upon motion by President Swig, the Board voted 5-0 to continue this matter to February 8, 2023, so that the permit holder can have revised plans that are acceptable to DBI and the appellants.</p>
---	---

ACTION: Upon motion by President Swig, the Board voted 5-0 to grant the appeal and issue the permit on the condition it be revised to require the adoption of the revised plans, dated February 6, 2023, and the revised demolition calculations, dated February 7, 2023, which were submitted for the hearing. This motion was made on the basis that the permit has been certified and approved by DBI.

SPEAKERS: Tom Tunny, attorney for permit holder; Matthew Greene, DBI; Karen Liang, DBI; Andrew Catterall, attorney for appellants; David Strandberg, agent for appellants.

PUBLIC COMMENT: None.

(5) APPEAL NO. 22-079

<p>JOSHUA KLIPP, Appellant(s)</p> <p>vs.</p> <p>SAN FRANCISCO PUBLIC WORKS, BUREAU OF URBAN FORESTRY, Respondent</p>	<p>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 FURTHER CONSIDERATION. Note: On December 14, 2022, 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.</p>
--	---

ACTION: Upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Vice President Lopez recused) to grant the appeal and issue the order on the condition it be revised to require the adoption of the Tree Replacement Plan, dated February 2, 2023, that was submitted for the hearing. This motion was made based on UCSF’s commitment to plant trees for the City. The Board further requested that BUF report back to the Board annually about the progress of the planting until the completion of this project.

SPEAKERS: Vice President Lopez recused himself from hearing this matter due to a conflict of interest. He disclosed that his wife is employed by UCSF as a pediatrician, and therefore his family had a financial interest in UCSF.

Commissioner Eppler disclosed that, in the past, he served on the UCSF Advisory Group and on a non-profit board that had a grant agreement with the University. He stated that he discussed these matters with the city attorney, and it was determined that he did not have a conflict hearing this case.

Amiee Alden, agent for determination holder; Charles Olson, attorney for determination holder; Chris Buck, BUF; Josh Klipp, appellant.

PUBLIC COMMENT: Karen D. and Andrea Javelin, a member of the Inner Sunset Park Neighbors, spoke in support of UCSF. John Nulty stated that he wanted accountability for the trees that are to be planted in the immediate neighborhood and the 105 trees to be planted in Potrero Hill or some other neighborhood in San Francisco. Michael Nulty stated that San Francisco was in a deficit in terms of the number of trees that needed to be planted. He thanked UCSF for trying to do their part in this process, but he stated he thought they could have done better. He stated that they did not want to pay up as much as they could have, and therefore he was a little disappointed.

(6) APPEAL NO. 22-094

ABENET TEKIE, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	Appealing the ISSUANCE on December 22, 2022, to Abenet Tekie, of a Letter of Determination (the Zoning Administrator responded to a request for a Letter of Determination regarding the permitted building envelope for RH-1 districts and how these may be impacted by certain State laws; more specifically, the requestor had questions regarding height, rear yard controls, and local approval discretion and how these are impacted by State law). RECORD NO. 2022-007996ZAD. FOR HEARING TODAY.
---	--

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 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: Isaac Tolila, agent for appellant; Corey Teague, PD.

PUBLIC COMMENT: None.

(7) APPEAL NO. 22-092

MID-SUNSET NEIGHBORHOOD ASSOCIATION, INC, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2550 Irving Street. Appealing the ISSUANCE on November 18, 2022, to the Tenderloin Neighborhood Development Corporation, of a Demolition Permit (demolish a two-story, two-basement, office building). PERMIT NO. 2022/06/27/7192. FOR HEARING TODAY.
--	--

ACTION: Upon motion by President Swig, the Board voted 3-2 (Vice President Lopez and Commissioner Eppler dissented) to grant the appeal and issue the permit on the condition it be revised to require that the two environmental specialists for the appellant and permit holder work together to ensure that the public is protected by testing and sampling the subject property in the same manner that took place at 2511 Irving Street. This motion was made on the basis that: (1) there is precedent for doing this, (2) there is great concern for the protection and health of the neighborhood, and (3) were any other project, including non-SB-35 projects, presented before the Board, with similar environmental concerns that that had not been sufficiently addressed by the appropriate governmental agencies, the Board would end up with the same outcome. Lacking the four votes needed to pass, the motion failed. Upon motion by Commissioner Trasviña, the Board voted 5-0 to continue this Item to the earliest possible date, in this case February 22, 2023, so that the representative from the Department of Toxic Substance Control (DTSC) can be prepared to answer the questions that came up during the hearing. This motion was made on the basis that DTSC and the city agencies did not provide the commissioners with sufficient information to enable them to make a decision for this case.

SPEAKERS: President Swig disclosed that he has been involved with the law firm of Farella Braun and Martel on various actions, but that his association with the firm would not have any impact on his decision for the matter currently before the Board.

Enoch Wang, attorney for appellant; Don Moore, agent for appellant; CJ Higley, attorney for permit holder; David Grunat, agent for permit holder; Jackson Rabinowitsh, agent for permit holder; Corey Teague, PD; Matthew Greene, DBI; Ryan Casey, DPH; Parag Shah, DTSC.

PUBLIC COMMENT: Adam Michels, John Barkan, Rumesha Ahmed, Marsha Grandchamp, Thomas Soper, Kathleen Kelley, Joan Klau, Robert Ho, Yi-Kuan Lee, Krista Loretto, Cindy Boekken, Lisa, Nancy Lee, Winnie Fung, Christy, Meina Young, Lenny Siegel, Elle and Richard Chui spoke in support of the appellant.

Mauricio Chavez, Yorandir Amador, Andrew Devine, Wing Tam, Jenny Huang, Raf Almasta, Jake Price and Jonathan Bunemann spoke in support of the permit holder.

(8) ADOPTION OF BUDGET:

Discussion and possible adoption of the departmental budget for fiscal years 2023-24 and 2024-25.

ACTION: Upon motion by Commissioner Eppler, the Board voted 5-0 to adopt the budget.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 11:47 p.m.

The supporting documents for this meeting can be found at the following link:
<https://sf.gov/meeting/february-8-2023/board-appeals-hearing-february-8-2023>

A video of this meeting, can be found at the following link:
https://sanfrancisco.granicus.com/player/clip/42965?view_id=6&redirect=true&h=6029b6aef8d5e00f2db8034789a50d97