

**BOARD OF APPEALS**

**CITY & COUNTY OF SAN FRANCISCO**

**AGENDA FOR REGULAR MEETING - WEDNESDAY, DECEMBER 7, 2022**

**5:00 P.M., HYBRID MEETING (IN-PERSON AND REMOTE ACCESS)**

**CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE**

**THE PUBLIC MAY JOIN THE MEETING IN-PERSON, BY COMPUTER (ZOOM) OR  
TELEPHONE:**

**Access by Computer:**

**<https://us02web.zoom.us/j/81148983476>**

**Access by Telephone:**

**Call: 1-669-900-6833**

**Webinar ID: 811 4898 3476**

**(1) SPECIAL ITEM**

Consideration and possible adoption of a resolution which makes findings to allow teleconferenced meetings under California Government Code Section 54953(e).

**(2) 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.

**(3) COMMISSIONER COMMENTS & QUESTIONS**

**(4) ADOPTION OF MINUTES**

Discussion and possible adoption of the November 30, 2022 minutes.

**(5) SPECIAL ITEM**

Presentation by Chris Buck, Urban Forester, from San Francisco Public Works, Bureau of Urban Forestry. Mr. Buck will discuss the process for obtaining tree removal permits, relevant Code provisions, and the hearing process at Public Works.

**(6) APPEAL NO. 21-116**

<p>PRITAM SUBHARWAL, Appellant(s)</p> <p>vs.</p> <p>PLANNING DEPT., Respondent</p>	<p>245 Marina Blvd.</p> <p>Appealing the ISSUANCE on December 15, 2021, to Pritam Subharwal, of a Notice of Cancellation (Two building permits have been cancelled by DBI at the request of the Planning Department due to the failure to submit requested or required revisions. Description of permits: Demolition Permit: Demolish three-story Type V construction single family dwelling; Site Permit: First Floor: enlarge existing garage, new front entry, new playroom; Second Floor: enlarge existing living, dining, and kitchen; Third Floor: enlarge existing bedrooms &amp; bathrooms; 4th Floor: new passive collector area).</p> <p>PERMIT NOS. 2011/11/01/8065 (site permit) and 2019/02/11/2585 (demolition permit).</p> <p>FOR HEARING TODAY.</p>
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**(7) APPEAL NO. 21-088**

<p>GRASSY GROVE, LLC, Appellant(s)</p> <p>vs.</p> <p>ZONING ADMINISTRATOR, Respondent</p>	<p>145 Jefferson Street.</p> <p>Appealing the ISSUANCE on August 18, 2021, to Enso Management Company, of a Letter of Determination (The request seeks confirmation of the following: 1) whether a proposed cannabis museum, including museum tour space, exhibition cannabis growing and processing spaces, and a gift shop containing a licensed retail cannabis dispensary would be considered a General Entertainment use; and 2) whether the gift shop, containing a licensed retail dispensary selling cannabis products, would be subject to the location controls of Planning Code Section 202.2, specifically, the required 600-foot buffer between Cannabis Retail establishments. The Zoning Administrator determined that the proposed cannabis museum would be a use that principally provides entertainment and leisure to the general public and would generally meet the definition of General Entertainment. If certain criteria are met, then the cannabis retail activity within the proposed museum is considered an accessory use and is not subject to Planning Code requirements applying to Cannabis Retail as a Principal or Conditional use, this includes the 600-foot buffer location requirements prescribed by Planning Code Section 202.2).</p> <p>RECORD NO. 2021-001699ZAD.</p> <p>FOR HEARING TODAY.</p> <p><b>Note: On October 19, 2022, upon motion by Commissioner Eppler, the Board voted 5-0 to continue this matter to December 7, 2022, so that the Planning Department could have time to file a late brief.</b></p>
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**(8) SPECIAL ITEM: DISCUSSION AND POSSIBLE ACTION**

On September 8, 2022, the San Francisco Municipal Transportation Agency ("SFMTA") advised the Board of Appeals (BOA) that it would discontinue the practice of having the Board hear appeals related to taxi permit decisions. The commissioners will consider the possibility of sending a letter to the SFMTA which requests reconsideration of this decision and possibly also explaining: (1) the reasons why the BOA believes that the SFMTA should allow taxi permit appeals to be heard by the BOA, and (2) the factors considered by the Board when deciding these types of cases.

**(9) SPECIAL ITEM: DISCUSSION AND POSSIBLE ADOPTION OF THE DEPARTMENTAL ANNUAL REPORT FOR FISCAL YEAR 2021-2022.**

**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: **December 2, 2022**

<b>MEMBERS OF THE BOARD OF APPEALS</b>
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<b>RICK SWIG</b>	<b>PRESIDENT</b>
<b>JOSE LOPEZ</b>	<b>VICE PRESIDENT</b>
<b>ALEX LEMBERG</b>	<b>COMMISSIONER</b>
<b>JOHN TRASVIÑA</b>	<b>COMMISSIONER</b>
<b>J.R. EPPLER</b>	<b>COMMISSIONER</b>

**HYBRID MEETINGS**

This meeting will be held in person at the location listed above. As authorized by California Government Code Section 54953(e) and Mayor Breed's 45th Supplement to her February 25, 2020 emergency proclamation, it is possible that some members of the Board of Appeals may attend this meeting remotely. In that event, those members will participate and vote by video. Members of the public may attend the meeting to observe and provide public comment at the physical meeting location or by telephone/online (access information listed above).

**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

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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 to not start an item on the agenda after 10:00 p.m.

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.

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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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.