

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, JULY 12, 2023

REGULAR 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. Epler.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Tina Tam, Deputy Zoning Administrator, Planning Department (PD); Rebecca Salgado, Preservation Planner, PD; Matthew Greene, Chief Building Inspector, Department of Building Inspection (DBI); 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: Hunter Leigh spoke about the process by which he ended up before the Board of Appeals. He stated that the system repeatedly failed him as a regular person. He noted that he did not receive notice of the construction work until after it began, and that asbestos dust was going through the vent into his daughter's bedroom. He stated that he looked to the City for help and the City refused. He further stated that he spent tens of thousands of dollars on the process and noted that most people could not do this. He was happy to have a resolution of his issues but noted that getting before the Board was not a reasonable process.

President Swig responded to Mr. Leigh by stating that members of the public should contact their District Supervisor if they are not getting what they need from the City. He stated that he was sorry Mr. Leigh had a bad experience.

David Osgood stated that in terms of contacting a supervisor, it was easier said than done. He noted that if you supported a candidate who did not win during the election, you could be blackballed by your supervisor. He stated that his supervisor was completely unresponsive.

REGULAR MEETING, BOARD OF APPEALS, JULY 12, 2023 - PAGE 2

President Swig noted for the record that Joshua Klipp, a former appellant, submitted a letter to the Board to be considered during general public comment. The letter concerned two appeals that were previously heard by the Board (Appeal Nos. 21-076 and 19-076). For both of those cases, Mr. Klipp indicated that DPW did not follow through on the obligations imposed by the Board. President Swig asked the Executive Director to forward the letter to DPW and to request a response.

Commissioner Lemberg stated that he was fine with President Swig's suggestion and was also supportive of putting this matter on a future agenda. He agreed it would make sense to read the response letter prior to putting the matter on the Board's calendar.

Commissioner Eppler noted that there was a new tool to get DPW to comply with city processes, namely the Public Works Commission. He recommended also sending the letter to that body.

Commissioner Trasviña indicated that he was supportive of requesting a response from DPW and noted that if the Board was having difficulty getting compliance with its actions, then it must be even more difficult for the public. He asked President Swig if the commissioners have the power to request, as part of their motions, that the relevant departments report back to the Board regarding the implementation or status of a case.

(2) COMMISSIONER COMMENTS & QUESTIONS

SPEAKERS: Commissioner Comments were made under Item 1.

PUBLIC COMMENT: None.

(3) ADOPTION OF MINUTES

Discussion and possible adoption of the June 21, 2023 minutes.

ACTION: Upon motion by Commissioner Trasviña, the Board voted 4-0-1 (Vice President Lopez absent) to adopt the June 21, 2023, meeting minutes.

PUBLIC COMMENT: None.

ITEMS (4A), (4B), (4C) & (4D) SHALL BE HEARD TOGETHER

(4A) APPEAL NO. 23-020

<p>DAVID OSGOOD, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>101 Spear Street. Appealing the ISSUANCE on May 11, 2023, to HUDSON RINCON CENTER LLC, of an Alteration Permit (Sign C: Install two illuminated double-faced projecting blade signs for "Tenant XYZ Rincon Center"). PERMIT NO. 2021/0525/1018. FOR HEARING TODAY.</p>
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(4B) APPEAL NO. 23-021

DAVID OSGOOD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	101 Spear Street. Appealing the ISSUANCE on May 11, 2023, to HUDSON RINCON CENTER LLC, of an Alteration Permit (Sign D: Install One Non-Illuminated single face canopy sign for "Tenant XYZ"). PERMIT NO. 2021/0525/1021. FOR HEARING TODAY.
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(4C) APPEAL NO. 23-022

DAVID OSGOOD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	101 Spear Street. Appealing the ISSUANCE on May 12, 2023, to HUDSON RINCON CENTER LLC, of an Alteration Permit (Erect an electric, single-faced wall sign "Rincon"; four total). PERMIT NO. 2021/0525/1015. FOR HEARING TODAY.
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(4D) APPEAL NO. 23-023

DAVID OSGOOD, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	101 Spear Street. Appealing the ISSUANCE on May 12, 2023, to HUDSON RINCON CENTER LLC, of an Alteration Permit (Erect a non-electric single wall-faced sign permit "Rincon Center"). PERMIT NO. 2021/0525/1011. 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 these Items to September 6, 2023 so that the parties can provide supplemental briefs which address the following: (1) How the Planning Department arrived at its decision to approve the permits, including the determinations it made; and whether the Planning Department could provide written findings of a determination under Planning Code Section 1006.6, including any resource implications that would have for the Department; (2) the applicability and conformity of these permits with Article 11 of the Planning Code; and (3) whether the issuance of the permits complies with the 2018 legislation (Planning Code Section 1005(e)(6)). Further, the City Attorney will provide an opinion to the Board on the legal issues raised by these topics. This motion was made on the basis that the commissioners need to have additional information to make a good decision.

SPEAKERS: David Osgood, appellant; Tara Sullivan, attorney for permit holder; Jared Willis, agent for permit holder; Tina Tam, PD; Rebecca Salgado, PD; Matthew Greene, DBI.

PUBLIC COMMENT: Arron Peskin, President of the Board of Supervisors, stated that in 2008 he authored Proposition J, now ensconced in Section 4.135 of the Charter, that created the Historic Preservation Commission. He further stated that he voted in 2018 for Ordinance No. 179-18. He indicated that all the findings for this ordinance were about streamlining of 100% affordable housing construction. He averred that the changes to Articles 10 and 11 had nothing to do with the streamlining of affordable housing; rather they were add-ons. He stated that at the time, he discussed them in detail with the Planning Department and that they were predicated on their

actions being subject to the existing code provision set forth in Article 10 at 1000.6. He believed that the Planning Department erred in issuing the permits for these cases. He indicated that the amendment was not intended to be an exemption. He stated that the MSP (Master Sign Plan) should have been brought before the Historic Preservation Commission in 2021 to be vetted. He recommended that the Board grant the appeals.

Eileen Boken and Mari Eliza spoke in supporting of the appellant.

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ITEMS (5A), (5B), (5C) & (5D) SHALL BE HEARD TOGETHER

(5A) APPEAL NO. 22-072

<p>HUNTER LEIGH and MARIA LEIGH, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent</p>	<p>1863 Pine Street. Appealing the ISSUANCE on September 30, 2022, to Surinder Sandhu, of an Electrical Permit (rewire all three remodel floors with new 200-amp service). PERMIT NO. E202209302726. FOR HEARING TODAY. Note: On November 30, 2022, upon motion by Commissioner Lemberg, the Board voted 5-0 to continue these appeals to February 1, 2023 at the request of the parties. On February 1, 2023, upon motion by President Swig, the Board voted 5-0 to continue these Items to February 22, 2023, at the request of the parties. On February 14, 2023, the appeals were rescheduled, at the initiation of the Board Office and with the agreement of the parties, to March 15, 2023. The Board Office requested that the appeals be rescheduled due to a heavy calendar on February 22, 2023. On March 15, 2023, upon motion by Commissioner Lemberg, the Board voted 5-0 to continue these Items to April 12, 2023, at the request of the parties. On April 12, 2023, upon motion by Commissioner Lemberg, the Board voted 4-0-1 (Vice President Lopez absent) to continue these Items to May 31, 2023, so that the parties would have more time to work on a settlement agreement. Note: On May 31, 2023, upon motion by Commissioner Eppler, the Board voted 5-0 to continue this Item to June 7, 2023, at the request of the parties. On June 7, 2023, upon motion by Vice President Lopez, the Board voted 5-0 to continue these Items to July 12, 2023, to give the parties more time to confer and to allow the permit holder time to submit revised plans which address the concerns of the appellants and the departments.</p>
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REGULAR MEETING, BOARD OF APPEALS, JULY 12, 2023 - PAGE 6

(5B) APPEAL NO. 22-073

HUNTER LEIGH and MARIA LEIGH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1863 Pine Street. Appealing the ISSUANCE on September 30, 2022, to Surinder Sandhu, of a Plumbing Permit (All new hot and cold waste and ventilation throughout floors including four bathrooms, six sinks, kitchen sink and washer/dryer, dishwasher, water heater, storm drain, three shower pans, and one tub). PERMIT NO. PP20220930335. FOR HEARING TODAY. See Note in (6A), above.
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(5C) APPEAL NO. 22-074

HUNTER LEIGH and MARIA LEIGH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1863 Pine Street. Appealing the ISSUANCE on September 30, 2022, to Surinder Sandhu, of a Building Permit (install fan 80,000 BTU, and six fans and one kitchen hood). PERMIT NO. PM20220930337. FOR HEARING TODAY. See Note in (6A), above.
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(5D) APPEAL NO. 22-075

HUNTER LEIGH and MARIA LEIGH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	1863 Pine Street. Appealing the ISSUANCE on October 27, 2022, to Surinder Sandhu, of an Alteration Permit (Revision to permit #202102084273; add bathroom on third floor; add shower on first floor.; slope ceiling in the kitchen). PERMIT NO. 2022/06/06/5684. FOR HEARING TODAY. See Note in (6A), 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 issue the permits on the condition that they be revised to require the adoption of the revised plans dated 7/12/2023 provided that they incorporate the two revisions made by the appellant: (1) The party wall needs to be shown straddling the property line, and (2) Sheets A-111 and A-112 shall be included. Further, work cannot commence under these permits until Permit No. 2021/0208/4273 is approved by the Planning Department and reinstated by DBI. This motion was made based on the agreement of the parties and the department.

SPEAKERS: Matthew Greene, DBI.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Swig adjourned the meeting at 9:29 p.m.

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

<https://sf.gov/meeting/july-12-2023/board-appeals-hearing-july-12-2023>

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

https://sanfrancisco.granicus.com/player/clip/44068?view_id=6&redirect=true&h=b99cb5430ac34b3ca860378e23231457

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