

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

DRAFT MEETING MINUTES – WEDNESDAY, MARCH 27, 2024

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 Jose Lopez, Vice President Alex Lemberg, Commissioner Rick Swig, Commissioner John Trasviña, and Commissioner J.R. Eppler.

Jen Huber, Deputy City Attorney, Office of the City Attorney (CAT); Tina Tam, Deputy Zoning Administrator, Planning Department (PD); Matthew Greene, Deputy Director Inspection Services, Department of Building Inspection (DBI); Henry Lifton, CAT, representing the Department of Public Health (DPH); Janine Young, Senior Health Inspector, Retail Tobacco & Smoking Program, 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 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.

SPEAKERS: None.

(2) **COMMISSIONER COMMENTS & QUESTIONS**

SPEAKERS: None.

(3) **ADOPTION OF MINUTES**

Discussion and possible adoption of the March 13, 2024 minutes.

ACTION: Upon motion by Commissioner Trasviña, the Board voted 5-0 to adopt the March 13, 2024, hearing minutes.

PUBLIC COMMENT: None.

(4) APPEAL NO. 24-016

<p>ELECTRIC CITY, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF PUBLIC HEALTH, Respondent</p>	<p>1347 Polk Street. Appealing the ISSUANCE on February 6, 2024, to Electric City, of a Notification of Tobacco Permit Denial (DENIAL of Retail Tobacco Sales Permit for the following reasons: (1) Pursuant to San Francisco Health Code (SFHC) 19H.4(f)(3), no new permit shall be issued if the Applicant will be within 500 feet of a School; the Establishment is located within 500 feet of one School; (2) Pursuant to SFHC 19H.4(f)(4), no new permit shall be issued if the Applicant will be located within 500 feet of an existing Establishment; the Applicant's Establishment is located within 500 feet of four other Establishments that have valid SFDPH Retail Tobacco Sales Permits; and (3) Pursuant to SFHC 19H.4(f)(5) and 19H.5(a), no new permit shall be issued in any Supervisorial District that has 45 or more Establishments with SFDPH Tobacco Sales Permits; the Establishment is in Supervisorial District 3 which currently has 95 valid SFDPH Retail Tobacco Sales Permits). PERMIT NO. EHD ID NO. 97731. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Swig, the Board voted 5-0 to deny the appeal and uphold the determination denying the Retail Tobacco Sales Permit, on the basis it was properly issued as the applicant did not qualify for a permit under the Health Code.

SPEAKERS: Randall Schmidt, attorney for appellant; Ahmad Sultani, agent for appellant; Henry Lifton, CAT (on behalf of DPH); Janine Young, DPH; Tina Tam, PD.

PUBLIC COMMENT: None.

(5) APPEAL NO. 24-007

<p>SUNYA SMITH, Appellant(s)</p> <p>vs.</p> <p>DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>163 28th Street. Appealing the ISSUANCE on January 12, 2024, to Sara Ahmadian and Andrew Swerdlow, of a Site Permit (two-story, top floor addition on two-story, single-family house; new third floor with two bedrooms, two bathrooms, washer/dryer; new fourth floor with one bedroom, one bathroom and one roof deck). PERMIT NO. 2021/01/29/3667. FOR HEARING TODAY.</p>
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ACTION: Upon motion by Commissioner Swig, the Board voted 5-0 to grant the appeal and issue the permit on the condition it be revised to require the removal of the windows and skylight at the southwest corner of the fourth floor of the building as identified on the schematic submitted at the

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hearing. This motion was made on the basis that the permit was properly issued, but the permit holder was making a benevolent accommodation to the appellant.

SPEAKERS: Sunya Smith, appellant; Sara Ahmadian, permit holder; David Cumby, agent for permit holder; Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: Georgia Schuttish spoke about the importance of demolition calculations on building projects. She noted that this project did not include demolition calculations on the plans submitted for the hearing or on the plans in PIM.

Dana Atherton, the neighbor adjacent to the subject property, noted that there was no abatement for lead or asbestos during the tear down phase of the project. He also stated that his concerns about privacy were disregarded.

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

(6A) APPEAL NO. 24-005

MARTIN ENG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	939 Lombard Street. Appealing the ISSUANCE on January 11, 2024, to Byrnes Special Works LLC, of a Demolition Permit (demolition of a Type V, one-story carport). PERMIT NO. 2021/07/09/4044. FOR HEARING TODAY.
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(6B) APPEAL NO. 24-006

MARTIN ENG, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	939 Lombard Street. Appealing the ISSUANCE on January 11, 2024, to Byrnes Special Works LLC, of a Site Permit (erect four stories, no basement, Type V-B, single-family dwelling unit). PERMIT NO. 2021/07/09/4046. FOR HEARING TODAY.
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ACTION: Upon motion by President Lopez, the Board voted 5-0 to deny the appeals and uphold the permits on the basis that they were properly issued.

SPEAKERS: Martin Eng, appellant; Stephanie Falkenstein, agent for appellant; Tara Sullivan, attorney for permit holder; Curtis Hollenbeck, agent for permit holder; Tina Tam, PD; Matthew Greene, DBI.

PUBLIC COMMENT: Natasha spoke in support of the appellant.

ADJOURNMENT.

There being no further business, President Lopez adjourned the meeting at 8:21 p.m.

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

<https://www.sf.gov/meeting/march-27-2024/board-appeals-hearing-march-27-2024>

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

https://sanfrancisco.granicus.com/player/clip/45751?view_id=6&redirect=true