

# SAN FRANCISCO PLANNING COMMISSION

## DRAFT - Meeting Minutes

Commission Chambers, Room 400  
City Hall, 1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**Thursday, April 10, 2014**  
**12:00 p.m.**  
**Regular Meeting**

**COMMISSIONERS PRESENT:** Wu, Fong, Antonini, Borden, Hillis, Moore, Sugaya

**THE MEETING WAS CALLED TO ORDER BY PRESIDENT WU AT 12:09 P.M.**

**STAFF IN ATTENDANCE:** John Rahaim – Planning Director, Corey Teague – Assistant Zoning Administrator, Aaron Starr, Kanishka Burns, Laura Ajello and Jonas P. Ionin – Commission Secretary

**SPEAKER KEY:**

- + indicates a speaker in support of an item;
- indicates a speaker in opposition to an item; and
- = indicates a neutral speaker or a speaker who did not indicate support or opposition.

**A. CONSIDERATION OF ITEMS PROPOSED FOR CONTINUANCE**

The Commission will consider a request for continuance to a later date. The Commission may choose to continue the item to the date proposed below, to continue the item to another date, or to hear the item on this calendar.

1. 2013.0936U (K. BURNS (415) 575-9112)  
FORMULA RETAIL CONTROLS TODAY AND TOMORROW - **Informational Presentation** – Ted Egan, Ph.D Chief Economist of the Office of Economic Analysis at the City and County of San Francisco’s Office of the Controller will present his report “Expanding Formula Retail Controls: Economic Impact Report” which was released on February 12, 2014. This report was prepared in response to a proposed ordinance (Board File No.130788), introduced by Supervisor Mar, which would expand formula retail controls in San Francisco.

Preliminary Recommendation: None – Informational  
 (Continued from Regular Meeting of March 27, 2014)  
**(Proposed for Continuance to May 15, 2014)**

SPEAKERS: None  
 ACTION: Continued to May 15, 2014  
 AYES: Wu, Fong, Borden, Hillis, Moore, Sugaya  
 NAYES: Antonini

- 2a. 2013.0465D (G. CABREROS: (415) 558-6169)  
2479 FRANCISCO STREET - south side between Baker and Broderick Streets; Lot 026A in Assessor's Block 0931 - **Request for Discretionary Review** of Building Permit Application No. 2013.04.09.4047, proposing facade alterations and construction of a new third floor, a side horizontal addition at the front entry stairs and a rear horizontal addition to the existing two-story, single-family residence in a RH-3 (Residential, House, Three-Family) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.  
 Staff Analysis: Abbreviated Discretionary Review  
 Preliminary Recommendation: Do not take Discretionary Review and approve  
**(Proposed for Continuance to May 1, 2014)**

SPEAKERS: None  
 ACTION: Continued to May 1, 2014  
 AYES: Wu, Fong, Antonini, Borden, Hillis, Moore, Sugaya

- 2b. 2013.0465V (G. CABREROS: (415) 558-6169)  
2479 FRANCISCO STREET - Lot 026A in Assessor's Block 0931 in a RH-3 (Residential, House, Three-Family) Zoning District and 40-X Height and Bulk District. The project proposes facade alterations and construction of a new third floor, a side horizontal addition at the front entry stairs and a rear horizontal addition to the existing two-story, single-family residence. Planning Code Section 132 requires an approximately 6-foot front setback at the project. The existing building has no front setback, so additions to the noncomplying portion at the front of the building would require a front setback variance. The new 3rd floor is proposed to project 3 feet into the required front setback. Planning Code Section 134 requires an approximately 16-foot deep rear yard for the subject property, which is equal to 25% of the lot depth. The existing building has a rear yard of approximately 17 feet. The project proposes a one-story (14' wide) horizontal addition that would project approximately 13 feet into the required rear yard. *Proposed for continuance to Wednesday, April 23, 2014. The proposed April 23<sup>rd</sup> hearing date is to allow for a continuance of the variance case to the regular Variance Hearing held by the Zoning Administrator. The April 23<sup>rd</sup> hearing will be held at 9:30 AM in City Hall, 1 Dr. Carlton B. Goodlett Place, Room 408.*  
**(Proposed for Continuance to April 24 23, 2014)**

SPEAKERS: None  
 ACTION: ZA Continued to April 23, 2014

**B. CONSENT CALENDAR**

All matters listed hereunder constitute a Consent Calendar, are considered to be routine by the Planning Commission, and may be acted upon by a single roll call vote of the Commission. There will be no separate discussion of these items unless a member of the Commission, the public, or staff so requests, in which event the matter shall be removed from the Consent Calendar and considered as a separate item at this or a future hearing

3. [2014.0119Q](#) (K. BURNS: (415) 575-9112)  
 1440 – 1450 FILBERT STREET – – north side between Polk Street and Van Ness Avenue; Lot 043 in Assessor’s Block 0523 – **Request for Condominium Conversion** Subdivision to convert a four-story, six-unit building into residential condominiums within a RM-3 (Residential-Mixed, Medium Density) Zoning District and 65-A Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.  
 Preliminary Recommendation: Approve

SPEAKERS: None  
 ACTION: Approved  
 AYES: Wu, Fong, Antonini, Borden, Hillis, Moore, Sugaya  
 MOTION: M-19116

4. [2013.1446Q](#) (J. SPEIRS: (415) 575-9106)  
 330-340 SAN JOSE AVENUE - west side of San Jose Avenue between 25<sup>th</sup> and 26<sup>th</sup> Streets; Lot 010 in Assessor’s Block 6532 - **Request for Condominium Conversion** Subdivision to convert a three-story, six-unit building into residential condominiums within a RM-2 (Residential, Mixed, Moderate Density) Zoning District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.  
 Preliminary Recommendation: Approve

SPEAKERS: None  
 ACTION: Approved  
 AYES: Wu, Fong, Antonini, Borden, Hillis, Moore, Sugaya  
 MOTION: M-19117

**C. COMMISSION MATTERS**

5. Consideration of Adoption:  
 • [Draft Minutes for March 27, 2014](#)

SPEAKERS: None  
 ACTION: Adopted as corrected  
 AYES: Wu, Fong, Antonini, Borden, Hillis, Moore, Sugaya

Adoption of Commission Minutes – Charter Section 4.104 requires all commissioners to vote yes or no on all matters unless that commissioner is excused by a vote of the Commission. Commissioners may not be automatically excluded from a vote on the minutes because they did not attend the meeting.

## 6. Commission Comments/Questions

- Inquiries/Announcements. Without discussion, at this time Commissioners may make announcements or inquiries of staff regarding various matters of interest to the Commissioner(s).
- Future Meetings/Agendas. At this time, the Commission may discuss and take action to set the date of a Special Meeting and/or determine those items that could be placed on the agenda of the next meeting and other future meetings of the Planning Commission.

### **Commissioner Antonini:**

Interesting article in yesterday's Wall Street Journal, and I just glanced at it briefly, but they posed a question in the article: "What city lost the highest percentage in number of jobs in the last two or three years." I forget the time period. And they said: "Do you think it's Detroit, St. Louis..." they named a number of cities that we traditionally think of being economically challenged. And the answer was, by a large percentage, Los Angeles, which lost three percent of their jobs over that period of time. They pointed out most of...it was even worse in the lower income areas of Los Angeles, where sometimes it was 10-12, 15 percent, and the causes, at least in this article, they said, were employment laws, regulation, fees and by contrast the ones that gained the most during that same period of time were Houston and San Antonio, the fourth and seventh largest cities in the United States. And they had, among their jobs created, they had a lot of entry level jobs were created. So, I think, this is instructive for us as we go forward with considerations of laws, well meaning laws, sometimes, to increase the minimum wage and other types of laws that they're not too precipitous and they have effect of dampening employment particularly in entry level jobs, which everybody's been talking about keeping. And we often consider them when we approve projects and approve various things to make sure that there are PDR jobs and other kinds of jobs that are entry level. So, I think it's interesting and I believe that's yesterday's Wall Street Journal. Thank you.

### **Commissioner Moore:**

I am very happy to see that Supervisor Kim introduces a new legislation on housing balance. Declaring an SUD with specific boundaries, by which affordable housing would be monitored and concurrent with market rate housing coming on-line. I think this is one other very interesting piece of legislation. One responding to the Mayor's mandate, but also complimenting of what Supervisors Wiener and President Chiu have been doing with innovative approaches looking at housing. There's an article out there, including a map, I hope that the Director will give us an update, or AnMarie or Mr. Starr, I think this is a very interesting piece and I'd like to get more of the details in pursuing it.

### **Commissioner Antonini:**

Yeah, I wasn't going to comment on that, but in view of Commissioner Moore's I don't really think this sounds very good. You know, we just finished doing Eastern Neighborhoods and more than anything, many of the people who commented at that time have said: we don't want to consider each project a conditional use, we want to have projects that conform should be able to move forward and I don't see any point in this. All it does is stifle or possibly stifle market rate housing. Does nothing to provide more affordable housing, even less, cause there'd be no fees, and each of these projects has fees connected with it. But I do have a question, and I know we'll be getting a report later, perhaps whoever is going to give the report could let me know if when we talk about the percentage of affordable housing, is that only inclusionary, 100% affordable, public housing or does it also include rent controlled units, because most of these units would be de facto affordable. Now, technically once somebody leaves they are market rate because the rent can be changed, but I think we have to really look at this and know what the define, the definitions of that – what is the percentage of affordable housing that exists in this particular area. And also, they gave us a figure in the newspaper, anyway, regarding the income levels in this area, and I wonder how recent that figure is. Because there has been a lot of growth particularly some units that are newer

condos and rentals, which might tend to make that figure higher than the one that was quoted. So, in terms of staff as we move forward if we could have answers to those because we're going to have to consider this legislation in the next few weeks, I would assume.

**Commissioner Wu:**

Commissioner Antonini, thank you for your comments, but I think I want to remind the Commission not to get into a discussion on a topic that's not been calendared.

**Commissioner Antonini:**

Sure, most of my things are questions for the main two things I wanted to ask.

**D. DEPARTMENT MATTERS**

7. Director's Announcements

**Director Rahaim:**

Thank you, good afternoon Commission, I just want to comment briefly on the article that appeared in this week's Chronicle regarding the short term rentals and the role of the Planning Department. It was a very prominent article and I think, unfortunately, conflated a couple of independent issues and actions. I wanted to clarify for the Commission and for the public that the Department's enforcement actions on short term rentals have nothing to do with evictions. Those are private matters between landlords and tenants related to leases. The complaints that the Department has received almost entirely have to do with units that are being held off the market, where in fact, no one is living in the unit on a full-time basis and those units are being held off the market and rented only as short term rentals essentially as a hotel room. The vast majority of complaints that we receive and the vast majority of actions that we take are related to those types of dwelling units. In fact, we did send an article or a letter yesterday in response to that article because I was very concerned that the Department was perceived as contributing to people being evicted from their apartments, and in fact, our actions have nothing to do with evictions. Just wanted to clarify that for the record, thank you.

8. Review of Past Events at the Board of Supervisors, Board of Appeals and Historic Preservation Commission

**Board of Supervisors Report:**

**LAND USE COMMITTEE:**

- No items at the Land Use Committee

**FULL BOARD OF SUPERVISORS:**

- **Supervisor Chiu's Ordinance: Granting Legal Status to Illegal Units passed the Board on its second read this week.** As you may recall the Ordinance would allow legalization of existing illegal units. This Commission heard this item on March 13, and recommended 6-1 for approval with modifications. The Ordinance is now at the Mayor's office awaiting his action.
- **Supervisor Wiener's Ordinance: Allow the addition of a unit in the Castro unanimously passed the Board on its first read.** This Ordinance would allow adding additional units in the Castro within the existing building envelope. This Commission heard this item on March 6<sup>th</sup>, and recommended 6-0 for approval with modifications. This Ordinance will have its second read next week will have its second reading next week.

**INTRODUCTIONS:**

- **140340 Supervisor Kim: Central City South of Market Area - Housing Balance Special Use District.** Ordinance amending the Planning Code to establish a special use district in the District 6, Supervisor Kim's district, to balance market rate housing and affordable housing and to require conditional use permit for market rate housing if the balance is not maintained; amending the Zoning Map to establish this special use district. This Ordinance gained three other co-sponsors including Avalos, Campos and Mar. This Ordinance would amend the Planning Code so it will be coming to you within the next 90 days for your review and action.

**Board of Appeals Report:**

The Board of Appeals last night was a bit of a doozy. Five cases on the Agenda and they were all Planning related. Four of them may be of note for the Planning Commission. First, 1050 Valencia Street was back at the Board of Appeals. Just, very briefly again, a 12 unit building on Valencia Street, five-stories, ground floor retail. The CEQA analysis and determination for that project was appealed to the Planning Commission and Board of Supervisors and also an injunction request was filed in Superior Court that also failed recently. The large project authorization – I'm sorry, skipped one – the building permit was appealed to the Board of Appeals and originally they took the fifth floor off, then they came back later and revised that determination to two setbacks at the fifth floor 10-12 feet on the front and the rear. There were two separate re-hearing requests. One from the project sponsor, one from the Liberty Hill appellants, the Marsh Theater, who was the other appellant did not request a re-hearing and instead, filed a brief opposing the re-hearing requests. After some testimony, the Board did vote unanimously to deny both re-hearing requests, so at least at the Board of Appeals, that project is done. The next item, 480 Potrero Avenue, this is the one where I was slightly getting ahead of myself, this is the one at Potrero and Mariposa, about 70 dwelling units, CEQA was appealed to the Planning Commission and the Board of Supervisors and Superior Court. This was an appeal of the building permit, the Board of Adjustment, I mean - the Board of Appeals had already heard an appeal of the large project authorization last year, and had denied that appeal, and they also denied the appeal of the building permit on a 4-0 vote. The next project was 340 31<sup>st</sup> Avenue, the DuPont tennis courts, this is a permit that did not come before the Planning Commission, it is of interest because it is a project the Rec Park Department, specifically with the bathroom on the site, there was a series of determinations and the permit was issued, it was appealed, it was a demolition permit, this was part of the 2008 bond program to upgrade parks and this one specifically was part of their bathroom upgrade program, the permit was to demolish the existing bathroom and construct a new structure that would be ADA compliant. There was some work done to the exterior of the building and the permit was appealed and a new determination was made that based on the current state, after an HRER was done the DuPont tennis courts site was still a historic resource to a non-contiguous district, but the building itself no longer was, the Board of Appeals seemed to favor an outcome leaning more towards rehabilitating the existing building as opposed to demolishing and building a more modern structure and so they continued the item for 90 days. They asked the Rec and Park Department to further analyze that scenario in terms of rehabbing the existing building to meet ADA and continue to work with the community because there was some community preference for a rehabilitation option as well, so there'll be more to come on that item in the future. And a smaller item, 2529 Post Street, this was a project that got a variance in 2013 for the demolition and rebuild of rear stairs and decks as it required a second means of egress. The variance was approved in 2013, that variance was appealed to the Board of Appeals, that appeal was denied, the building permit was DR'd and it came to this Commission in September 2013, you did not take DR, approved it as proposed. This was an appeal of the building permit and the Board, after some discussion, they denied the appeal on a 4-1 vote. That was, it was a long meeting.

**Historic Preservation Commission Report:**

None

## E. GENERAL PUBLIC COMMENT – 15 MINUTES

At this time, members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items. However, for items where public comment is closed this is your opportunity to address the Commission. With respect to all other agenda items, your opportunity to address the Commission will be afforded when the item is reached in the meeting. Each member of the public may address the Commission for up to three minutes.

SPEAKERS: None

## F. REGULAR CALENDAR

The Commission Hearing Procedures provide for presentations by staff; followed by the project sponsor team; followed by public comment for and against the proposal. Please be advised that the project sponsor team includes: the sponsor(s) or their designee, lawyers, architects, engineers, expeditors, and/or other advisors.

9. [2014.0252C](#) (L. AJELLO: (415) 575-9142)  
3571 SACRAMENTO STREET - south side between Locust and Laurel Streets; Lot 023 of Assessor's Block 1019 - **Request for Conditional Use Authorization**, pursuant to Planning Code Sections 303 and 724.52, to convert vacant commercial space previously occupied by a retail store (d.b.a. Philanthropist) into a hair salon (personal service use d.b.a. Cherry Blow Dry Bar) on the ground floor of a two-story commercial building within the Sacramento Street Neighborhood Commercial District and 40-X Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.  
Preliminary Recommendation: Approve with Conditions  
(Continued from Regular Meeting of April 3, 2014)

SPEAKERS: None  
ACTION: Approved with Conditions  
AYES: Wu, Fong, Antonini, Borden, Hillis, Moore, Sugaya  
MOTION: M-19118

## G. DISCRETIONARY REVIEW CALENDAR

The Commission Discretionary Review Hearing Procedures provide for presentations by staff; followed by the DR requestor team; followed by public comment opposed to the project; followed by the project sponsor team; followed by public comment in support of the project. Please be advised that the DR requestor and project sponsor teams include: the DR requestor and sponsor or their designee, lawyers, architects, engineers, expeditors, and/or other advisors.

10. [2013.1481D](#) (K. BURNS: (415) 575-9112)  
765 MARKET STREET 22A AND 22B - south side of Market Street, between Third and Fourth Streets; Lots 127 and 128 in Assessor's Block 0121A - **Mandatory Discretionary Review**, pursuant to Planning Code Section 317(e), of Building Permit Application Nos. 2014.03.11.0443 and 2014.03.11.0437, proposing to make interior modifications to merge

two dwelling units into one unit, resulting in the elimination of one unit in an existing 139-unit building within a C-3-R (Downtown-Retail) Zoning District and 400-X and 400-I Height and Bulk District. This action constitutes the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.

Preliminary Recommendation: Take Discretionary Review and Disapprove

SPEAKERS: + Paul Haydu – Project Description  
ACTION: Did NOT Take DR, Approved merger  
AYES: Wu, Fong, Antonini, Borden, Hillis, Sugaya  
NAYES: Moore

#### H. PUBLIC COMMENT

At this time, members of the public may address the Commission on items of interest to the public that are within the subject matter jurisdiction of the Commission except agenda items. With respect to agenda items, your opportunity to address the Commission 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 Commission has closed the public hearing, your opportunity to address the Commission must be exercised during the Public Comment portion of the Calendar. Each member of the public may address the Commission for up to three minutes.

The Brown Act forbids a commission from taking action or discussing any item not appearing on the posted agenda, including those items raised at public comment. In response to public comment, the commission is limited to:

- (1) responding to statements made or questions posed by members of the public; or
- (2) requesting staff to report back on a matter at a subsequent meeting; or
- (3) directing staff to place the item on a future agenda. (Government Code Section 54954.2(a))

ADJOURNMENT – 12:54 PM