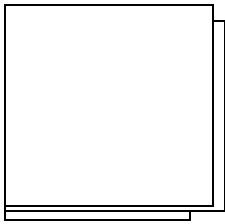


Access Appeals Commission Hearing: October 24, 2001



DEPARTMENT OF BUILDING INSPECTION
City & County of San Francisco
1660 Mission Street, San Francisco, California 94103-2414

ACCESS APPEALS COMMISSION

MINUTES

Wednesday, October 24, 2001

1:00 P.M.

City Hall

1 Dr. Carlton B. Goodlett Way, Room 416

1. CALL TO ORDER AND ROLL CALL

The regular meeting of the Access Appeals Commission was called to order by President Lim at 1:11 PM.

COMMISSION MEMBERS PRESENT: Ms. Enid Lim, President
Mr. Francis K. Chatillon, Vice-President
Ms. Roslyn Baltimore
Ms. Alyce G. Brown
Mr. Linton Stables III

COMMISSION MEMBERS ABSENT: None

CITY REPRESENTATIVES: Mr. Rafael Torres-Gil, DBI, Secretary
Ms. Susan Pangilinan, DBI, Recording Secretary
Ms. Miriam Stombler, Deputy City Attorney
Ms. Doris M. Levine, Reporter

2. PUBLIC COMMENT:

There was no public comment.

Public comment was closed.

3. APPROVAL OF MINUTES:

A unanimous vote by the commissioners approved the minutes for the commission hearing of September 26, 2001.

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Mr. Torres-Gil commented on Commissioner Baltimore's suggestion to have training for the commissioners. He agreed that it would be a good idea.

Commissioner Baltimore recommended that field trips would be helpful.

The commissioners were reminded of the need for submittal of Sunshine Ordinance declarations.

5. NEW APPEAL:**a. Appeal # 01-08 1 California Street**

Presentation by Mr. Torres-Gil.

He prefaced his presentation with comments concerning the broader implications beyond ratification under Section 1130B. Equivalent Facilitation under exception # 1 is not dealt with extensively in the summary and the applicant will be presenting additional information. The summary was supplemented with a presentation of the development of the Administrative Bulletin and the development for the proposed bulletin by L. Kornfield.

Presentation by Jeffery Feldman, Architect.

Commissioner Brown inquired about the bid for the structural modifications. Mr. Feldman responded. Commissioner Brown also commented on the lack of signage at the 'blue zone' indicating the accommodation of 8'-2" parking. Mr. Feldman indicated that DPW can not limit the size of vehicles that can use the 'blue zone'.

Commissioner Baltimore inquired about the additional parking available across the street and the available van parking. Mr. Feldman indicated that there is no legal claim to the spaces in adjacent building but spaces are available. Commissioner Brown inquired of Ms. Stompler about the arrangement of parking in the adjacent building. Ms. Stompler elaborated on her familiarity with past decisions.

Mr. Feldman indicated that there are other 'blue zones' in the immediate area.

President Lim asked if there is something that prevents the people at 1 California from helping locate accessible van spaces or facilitating the locating of 8'-2" van spaces.

Mr. Feldman discussed whether a reference phone number on a sign would be helpful.

President Lim inquired whether DBI has been asked about signage that would alert persons with 8'-2" vans of parking locations.

Mr. Torres-Gil elaborated on the current discussions related to statistical issues of van heights and signage to forewarn van parkers of accommodating heights in the parking garage.

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Commissioner Stables commented on his perception that technology is advancing ahead of the building code in terms of the new types of wheelchair vans with reduced heights. He feels that the ratification can be approved.

Commissioner Brown indicated that she agrees with Commissioner Stables. She feels that it should be ratified on a year by year basis.

Mr. Torres-Gil indicated that this ratification did not specify a time limit and generally discussed the Department's position on approving this UHR in terms of the two exceptions under section 1130B.

Commissioner Chatillon asks that if someone came by with a placard, and the blue zone was taken, how would they have access to know there was parking underneath. Mr. Feldman responded that at this time they would not know. If DPT would allow a sign then they would know. Mr. Feldman said there is van parking in the garage but without the required vertical dimension. He believes there is no sign indicating accessible parking in the garage. He supposes that a sign could be provided and feels a street space sign could also be provided.

Mr. Torres-Gil indicated that the Department is looking for direction on the matter of equivalent facilitation.

Mr. Feldman suggested that if a time line were to be considered a three years cycle based on accumulated value of work, as required by the code, should be considered.

Commissioner Stables asked for clarification on whether this matter was a ratification or something else. Mr. Torres-Gil indicated that he clearly means to state that this appeals is a ratification and that accessory to that there is discussion on equivalent facilitation based on the concerns of the applicant. Commissioner Stables said that ratification is only required when there is no equivalent facilitation. Mr. Torres-Gil indicated that this UHR is approved on the basis of both exceptions.

Mr. Feldman understands that the staff has not formally recognized equivalency beyond AB-007. DBI accepted equivalency under this permit based on past actions. It would be preferable if there was a broader statement of what equivalency is and/or is available for the department staff to make decisions.

Commissioner Brown gave an example of a sign on Davis St. The disabled need to know where to park when they need it.

Commissioner Baltimore recommends that the owner make available a list of other potential parking spots. She would prefer a stand-alone decision for this property only.

Commissioner Stables moved to ratify the decision by the department to grant a UHR under Exception #2 of Section 1130B based on the fact that compliance with the regulations would create an Unreasonable Hardship.

Commissioner Baltimore inquired if this would be a stand-alone decision. Commissioner Stables said yes. Commissioner Baltimore wanted to assure that a sign be considered advising the disabled of other parking in the area.

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Ms. Stompler stated: to ratify the Departments decision due to legal or physical constraints, compliance with the regulations creates an unreasonable hardship and equivalent facilitation would also create an unreasonable hardship. She asked if the question was whether they can ratify the decision but only on the condition that the applicants take whatever measures are within the applicant ability to provide as much equivalent facilitation as possible. She amend her comment to say that she meant as much 'facilitation' as possible that would not rise to the level of equivalency.

Commissioner Stables revised his motion to read: To ratify the Department's decision to grant Exception #2 under Section 1130B based on the fact that it would create an unreasonable hardship to provide compliance or equivalent facilitation based on the condition that the applicant provide signage, reviewed by the Department of Building Inspection, with direction to high-top van accessible spaces within the immediate area.

General discussion followed regarding the height to be specified on the sign the height available in the garage, the location of the sign, the reference to other parking locations, the locations of blue zones and that the signage be reviewed by the Department for wording.

Mr. Torres-Gil posed the question of equivalency in terms of the departments perspective on that. The commissioners indicated no.

President Lim indicated that public input had ended and forwarded the meeting to Public Comment, Item # 7 of the Agenda.

(There was no vote on the motion prior to Public Comment)

PUBLIC COMMENT (related to Appeal 5a):

Patrick Buscovich, Structural Engineer, suggested that the ratification apply to a specific building and a specific permit and to do a second motion to give staff direction on what equivalency is on this building so that every time a permit comes they have direction on what is equivalency so the applicant does not have to come back every time.

President Lim suggested the attachment of a three to five years time limit to the decision because there are a lot of permits applied for.

Commissioner Stables asked if they could consider that a part of the motion.

Commissioner Baltimore said that the applicant is making available other alternative parking sites and signage. If another case comes before the Department, it is not just a blue zone. Equivalency is as accepted by the Department with the applicant doing the leg-work.

Commissioner Stables indicated that he felt that the matter has become muddy because they have added back equivalent facilitation which isn't the exception being granted. Exception #1 does not call for consideration by the commission.

Mr. Torres-Gil indicated that equivalency is an 'or' situation in Exception #2.

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Commissioner Stables wondered why it would be written that way when Exception #1 specially is that. That is why you have two exceptions because sometimes you may not be able to do either.

Commissioner Brown asked if the exceptions applied to existing buildings. The other commissioners indicated that it did.

Ms. Stompler elaborated on the exceptions and indicated that the commission can approve on the basis of either exception. She further defined 'Unreasonable Hardship'.

Commissioner Baltimore asked if the hardship was based on financial constrains and indicated that the commission could just make a motion.

Commissioner Stables restated his motion:

Moves to grant the appeal based on exception #1 and a ratification based on exception #2 of Section 1130B and that the AAC recognizes the equivalent facilitation provided by the blue zone that was originally recognized by the AAC in 1996, and the provision of a sign, approved by the Department, pointing people with 8'-2" vans or greater, to other locations in the immediate area, for a five year period from today.

Vote:

Vice President Chatillon:	Aye
Commissioner Baltimore:	Aye
Commissioner Brown:	Aye
Commissioner Stables:	Aye
President Lim:	Aye

The motion passed.

6. COMMISSIONERS AND STAFF'S QUESTIONS AND COMMENTS:

Commissioner Baltimore inquired of Commissioner Stables' comments at the last meeting and also, indicated that she did the reason and initiated the motion (regarding the decision on 590 Bosworth). Commissioner Stables agreed.

Ms. Stompler inquired if the commission wished to rescind their earlier motion to approve the minutes, revise them and vote again.

Commissioner Chatillon made the motion to rescind the minutes of 9-26-01. Commissioner Baltimore requested amendment referencing that the motion was made by Commissioner Baltimore, not Commissioner Brown.

Commissioner Baltimore requested discussion on whether the commission should have a position from the Department and thought it should have been calendared for discussion.

Ms. Stompler indicated that under the Brown Act and Sunshine Ordinance the commissioners should not engage in any significant discussion of an item relevant to the public unless it is noticed on the agenda. The item should be identified in a future agenda so that members of the public who have an interest can appear and speak on the item.

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President Lim requested that the topic of a general discussion of the Department's position on hardship denial be on the agenda for a future meeting.

Commissioner Baltimore inquired of the November 14 hearing.

Mr. Torres-Gil indicated that he would like to agendaize two cases for the 14th and advised the commission that he would not be available for the November 28th hearing. If appeals must be heard, he would have to arrange for a substitute secretary. He also discussed the availability of parking at the Civic Center Garage.

Commissioner Stables inquired of equivalency in terms of free transit passes.

Mr. Torres-Gil discussed the status of appeals noted on the Outstanding Items. – 201 Turk and 590 Bosworth Street and the topic of 'rehearing'.

Commissioner Chatillon inquired if the commissioners would have a chance to look at elevators before the next hearing. He would be more comfortable with more education on elevators.

Mr. Torres-Gil indicated that he thought that the issues related to the dental office were a narrow focus in light of Sections 1103, 1107, 1105 and 1109 and that there would not be time before the hearing to arrange for this type of training.

Commissioner Baltimore inquired why there would not be time. It is scheduled for the 14th just to decide if there is a rehearing and the hearing can be held later.

Mr. Torres-Gil indicated that the applicant is certain he wants to be heard on the 14th.

Commissioner Baltimore indicated that it is the commissioners discretion and that the suggestion for training is a very good one. She requested the scheduling of Article 15 training as soon as possible so that everyone is up to speed. Every commissioner needs to feel comfortable with the body of information they have, in making the decision.

Mr. Torres-Gil indicated that the request for this training involves coordination with industry representatives and that that may be difficult. He wanted to emphasize that the matter of 590 Bosworth involves a lot of scheduling on the part of the people that will be presenting testimony and the applicant is very concerned about wanting the hearing on the 14th.

Commissioner Baltimore indicated the need to schedule, as quickly as possible, the Article 15 training, so that, the commission can postpone if the training can not be held before. She feels that if a commissioner wants more information, it is important.

Ms. Stompler interrupted to indicate the need to avoid getting too far into the substance of the appeal, when it was not on the agenda, and to indicate that she had the Bylaws available that talk about the rules of rehearing and the commissioner's discretion in having a hearing. She elaborated on, and read the rules regarding, Rehearing Requests, and indicated that a rehearing based on 'new information' is not required by the Bylaws.

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President Lim asked if they could have a special meeting regarding the topic of Article 15 elevators rather than doing it at one of the regularly scheduled meeting dates. She feels it is important to have a special meeting especially if they are going on a site visit.

Commissioner Brown also thinks the commissioners should see lifts. The applicant keeps changing their mind. They wanted an Article 15 and the commission granted them an Article 15. Now they want a lift. She hopes that the commission can get a demonstration on a lift.

President Lim feels that is why it is important to get the industry involved. They know where these things are situated and can take the commissioners to the proper facilities to see apparatus in action.

Commissioner Baltimore said to just make sure that the industry representatives visit the site prior to the commissioners, to make sure that, in fact, the lifts /elevators are working.

The meeting was adjourned at 2:36 PM.

Rafael Torres-Gil, Senior Building Inspector
Department of Building Inspection
Secretary to the Access Appeals Commission