
REGULAR MEETING MINUTES
APRIL 11, 2024

1. CALL TO ORDER & ORDERS OF THE DAY

ROLL CALL

PRESENT: Chair Karen Parsons, Vice Chair Ron Cabanayan, Commissioner Jon Budas, Commissioner David Hook, Commissioner Timothy Kenny, and Commissioner Williamson.

ABSENT:

STAFF: Board Secretary Regina Lizaola, Code Enforcement Inspectors Manuel Duarte, Planner II Alexandre Hughes, Division Manager Joseph Hatfield, and Deputy City Attorney Leanne Bolano.

1. CALL TO ORDER

Chair Parsons convened the Appeals Hearing Board at 6:30 p.m. in the City Council Chambers of City Hall, 200 E. Santa Clara Street, San Jose, CA 95113.

2. OPENING REMARKS AND APPROVAL OF MINUTES

APPROVAL OF MINUTES

Documents Filed: Draft Meeting Minutes from Appeals Hearing Board Regular Meeting on March 14, 2024.

Action: Upon motion by Commissioner Hook, seconded by Commissioner Kenny, and abstained by Commissioner Williamson the minutes for March 14, 2024 was approved. (5-0-1).

3. REQUEST FOR DEFERRALS

There was no request for deferrals.

4. CONSENT CALENDAR

No items on the Consen Calender.

5. DEFERRED AND/OR CONTINUED ITEMS

There was no deferred and/or continued items.

6. PUBLIC HEARINGS

a. 1726 Rogers Ave 237-09-128 & 237-09-127 Administrative Remedy

(Manuel Duarte, Code Enforcement Inspector/Rogers Ave LLC, Property Owner)

Documents Filed: Administrative Remedy and Notice of Public Hearing dated March 25, 2024

Action: Code Enforcement Inspector Manuel Duarte stated a correction needed to be made to the Notice of Hearing Section IV. Code Enforcement Recommendations part C, subsec. (A) and (B) on page 11 to be amended as follows:

A. Submit a complete application and all associated/required fees, documents and paperwork to the City of San Jose Planning Department, to apply for a Special Use Permit, to legalize all current and/or proposed uses.

Or

B. Cease all unpermitted uses. Remove all associated materials and equipment and secure the property.

Should the Property Owner comply with part A. above, the owner shall, on or before January 12, 2025, obtain an approved Special Use Permit from the City of San Jose Planning Department for the use of the property.

Recommendation: Issue an administrative order as set forth in the Staff Report dated March 25, 2024.

Inspector Duarte provided a summary and related pictures of the inspection completed at the subject property on April 11, 2024 at 4:00 p.m..

Property Owner Representative John Chen spoke and stated he is the beneficiary of Tung Tai Recycling, a business owned by his parents. He also advised the recycling activities have been operating for about 25 years. Mr. Chen concurred with Code Enforcement's summary and actions. Mr. Chen stated he hired a consultant to assist with preparing and submitting applications to the City in hopes of receiving the proper permits and approvals to be in compliance. He thought his application submitted on March 9, 2023 by his consultant Javier Campos to City Planner II Alexandre Hughes was complete. The Board asked Mr. Chen if he could feasibly submit a proper application by the proposed June 12, 2024 deadline. Mr. Chen responded he would be able to resubmit a complete application to the City well before the June 12, 2024 deadline using the existing documents. He also requested the Board reconsider Code Enforcement's recommendation to impose administrative penalties in the amount of \$5,000.00 pursuant to San Jose Municipal Code Section 1.14.090.

Mr. Hughes testified and explained to the Board that Mr. Chen's application was incomplete for several reasons; namely it was illegible and did not analyze whether the plans would require further review under the California Environmental Quality Act ("CEQA"). The application was thus deemed uncomplete and withdrawn on March 13, 2023.

The Board confirmed with Mr. Hughes that the June 12, 2024 deadline was in-step with City practice and expectations, and was doable. However, Mr. Hughes clarified that the old permit

application submitted on March 9, 2023 was withdrawn for inactivity, and Mr. Chen would need to resubmit his documents (as opposed to resurrecting the old application). Mr. Hughes also stated any further CEQA review may delay the approval process further. The Board encouraged City staff and Mr. Chen to confer and coordinate to assist Mr. Chen in submitting a complete, successful application.

Upon a motion by Commissioner Kenny, second by Commissioner Hook and carried (6-0-0) unanimously as amended on April 11, 2024 in its entirety as set forth in the Staff Report dated March 25, 2024.

- A. Submit a complete application and all associated/required fees, documents and paperwork to the City of San Jose Planning Department, to apply for a Special Use Permit, to legalize all current and/or proposed uses.

Or

- B. Cease all unpermitted uses. Remove all associated materials and equipment and secure the property.

Should the Property Owner comply with part A. above, the owner shall, on or before January 12, 2025, obtain an approved Special Use Permit from the City of San Jose Planning Department for the use of the property.

Recommendation: Issue an administrative order as set forth in the Staff Report dated March 25, 2024.

7. REQUEST FOR EXCUSED ABSENCE

8. OTHER BUSINESS

There was no other business.

9. PUBLIC COMMENT

There was no public testimony on the floor.

10. ADJOURNMENT

Upon a motion by Commissioner Hook, seconded by Vice Chair Cabanayan, and carried unanimously (6-0-0), the Hearing was adjourned at 7:17 p.m.