BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, NOVEMBER 20, 2013

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Chris Hwang, Vice President Ann Lazarus, Commissioner Frank Fung, Commissioner Darryl Honda and Commissioner Arcelia Hurtado.

Robert Bryan, Deputy City Attorney, Office of the City Attorney (OCA); Scott Sanchez, Zoning Administrator (ZA); Corey Teague, Assistant Zoning Administrator (ZA); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); John Kwong, Manager, Department of Public Works Bureau of Street Use and Mapping (DPW BSM); Carla Short, Urban Forester, Department of Public Works, Bureau of Urban Forestry (DPW BUF); Bruce Storrs, City and County of San Francisco Surveyor (DPW); Jarvis Murray, Municipal Transportation Agency Division of Taxis and Accessible Services (SFMTA); Cynthia Goldstein, Executive Director; Victor Pacheco, 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. 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.

PUBLIC COMMENT: Diane Carpio posed questions and made statements about the appeals process, how the Board evaluates evidence, what penalties the Board may impose and what is required of the departments appearing before the Board. Brian Soriano spoke about appeals heard by the Board regarding 68 Presidio Avenue, his assessment that these appeals are frivolous, the cost to the permit holder and the City with respect to these matters, and the effect of the withdrawal of the most recent appeal on the permit holder. Steve Minisini, the owner of 68 Presidio Avenue, expressed his disagreement with his neighbors' request that he eliminate a fire escape at his property and their filing of appeals he believes are frivolous. He also spoke about the financial impact of the permit process. Cathy Lentz spoke about tree removal on Brotherhood Way and her belief that the Environmental Impact Report for the area has been violated. She expressed her desire that the trees be replaced.

(2) **COMMISSIONER COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **ADOPTION OF MINUTES:**

Discussion and possible adoption of the November 13, 2013 minutes.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to adopt the November 13, 2013 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4) **ADDENDUM ITEMS:**

(4a) **REHEARING REQUEST:**

Subject property at 2801 Leavenworth Street. Letter from ShaSha Lewis, appellant, requesting rehearing of Appeal Nos. 13-085, Lewis vs. DPW BSM, decided October 23, 2013. At that time, the Board voted 4-0-1 (President Hwang absent) to uphold the denial of the Mobile Food Facility Permit (sale of coffee, tea, and sweets) on the basis of lack of evidence of continuous operation during the required period. Application No.13MFF-0082.

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to deny the request.

SPEAKERS: Shasha Lewis, requestor; John Kwong, DPW BSM.

PUBLIC COMMENT: Douglas Robbins spoke in support of the department; Diane Carpio spoke in support of the requestor.

(4b) **REHEARING REQUESTS:**

Subject property at 100 Garces Drive and 417-435 Gonzalez Drive. Letter from Julian Lagos, appellant, requesting rehearing of Appeal Nos. 13-107/120, Lagos vs. DPW BSM, decided October 23, 2013. At that time, the Board voted 3-1-1 (Commissioner Hurtado dissented, President Hwang absent) to uphold both Temporary Occupancy permits on the basis they are Code compliant, and with a recommendation that DPW reinstate the execution period for the permits. Permit Holder: Arborwell Inc. **Project, 1st permit**: crane, truck and tree chipper on south side of Garces Drive between Grijalva Drive and Gonzales Drive; Permit No. 13TOC-2034. **Project, 2nd permit:** closure of right lane and sidewalk on north side of Brotherhood Lane; will have tree trucks, chipper and equipment occupying this lane; from 9/10/13 to 9/20/13; Permit No. 13TOC-2237.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 5-0 to deny the requests.

SPEAKERS: Julian Lagos, requestor; Neil Woolner, agent for permit holder; John Kwong, DPW BSM.

PUBLIC COMMENT: Diane Carpio and Cathy Lentz spoke in support of the requestor.

(4c) **REHEARING REQUEST:**

Subject property at 70 Crestline Drive. Letter from Kenda McIntosh, attorney for Shamus Naughten / Dolmen Property Group LLC, permit holder, requesting rehearing of Appeal No. 13-062, T.P.E.N.A vs. DBI, PDA, decided July 17, 2013. At that time, the Board voted 4-1 (Commissioner Fung dissented) to grant the appeal and overturn the permit on the following basis: (1) the project does create exceptional and extraordinary circumstances because it will not preserve and protect the character and stability of the Vista Francisco Development and it will not be an orderly and beneficial in-fill project in the Vista Francisco Development; (2) the project, if approved, will result in an inappropriate precedent or expectation for a similar in-fill project elsewhere in the Vista Francisco Development; and (3) the Board's authority pursuant to Article 1, Section 26 of the San Francisco Business and Tax Regulations Code to consider the project's effect on surrounding properties and residents. Appellant: Twin Peaks Eastside Neighborhood Alliance. Project: Permit to Erect a Building (4-story, 4-unit residential building with 1,420sf of ground floor area; BPA No. 2009/08/25/5545S. **Note: On Aug. 14, 2013, the Board held a public hearing on this rehearing request, and voted 5-0 to continue the matter to Call of Chair to await the outcome of the subdivision issue at DPW with possible appeal to the Board of Supervisors.**

ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to continue this matter to the Call of the Chair to allow the subdivision issue to be resolved through the City process.

SPEAKERS: Bruce Storrs, DPW; Scott Sanchez, ZA; Dan Frattin, attorney for permit holder; Donald Bateman, agent for appellant.

PUBLIC COMMENT: Tim Colen spoke in support of the requestor. Nancy O'Brien spoke in support of the appellant.

ITEMS (5A), (5B), AND (5C) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 13-130**

JULIAN LAGOS, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	605 Gonzalez Drive. Protesting the ISSUANCE on September 18, 2013, to Parkmerced LLC, Tree Removal Permit (removal of one (1) tree with re-planting of three (3) trees of similar canopy and of largest size available). ORDER NO. 181658. FOR HEARING TODAY.

(5B) **APPEAL NO. 13-131**

JULIAN LAGOS, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	811 Gonzalez Drive. Protesting the ISSUANCE on September 18, 2013, to Parkmerced LLC, Tree Removal Permit (removal of one (1) tree with re-planting of three (3) trees of similar canopy and of largest size available). ORDER NO. 181659. FOR HEARING TODAY.

(5C) **APPEAL NO. 13-132**

JULIAN LAGOS, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	840 Gonzalez Drive. Protesting the ISSUANCE on September 18, 2013, to Parkmerced LLC, Tree Removal Permit (removal of one (1) tree with re-planting of three (3) trees of similar canopy and of largest size available). ORDER NO. 181660. FOR HEARING TODAY.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to deny the appeals and issue the permits on the basis that they are Code compliant.

SPEAKERS: Julian Lagos, appellant; Cathy Lentz, agent for appellant; Neil Woolner, agent for permit holder; Carla Short, DPW BUF.

PUBLIC COMMENT: Diane Carpio spoke in support of the appellant.

(6) **APPEAL NO. 13-124**

VLADIMIR STRAZHNIKOV, Appellant(s) vs. MUNICIPAL TRANSPORTATION AGENCY, Respondent	Appealing the REVOCATION on September 11, 2013, of Taxi Medallion No. 651. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-1 (Commissioner Honda dissented) to deny the appeal and revoke the permit on the basis of the evidence presented by the department.

SPEAKERS: Stephen Goldstein, attorney for appellant; Jarvis Murray, SFMTA; John Sanderson, agent for SFMTA.

PUBLIC COMMENT: Jacob Mayzel spoke in support of the appellant.

(7) **APPEAL NO. 13-113**

STEVEN GREENWALD & ROCHELLE ALPERT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	68 Presidio Avenue. Protesting the ISSUANCE on August 15, 2013, to Steve Minisini, Alteration Permit (expand existing roof deck; new metal guardrail at deck; relocate door to deck; new windows at family room; repair or replace existing fire escape; new fire pit and one-hour wall; this is a res-submittal of permit no. 2012/10/11/1876 due to +/- 13" high non-code compliant parapet and 10-day neighborhood notice not sent out by City Planning). APPLICATION NO. 2013/03/01/1348. PUBLIC HEARING HELD OCT. 09, 2013; FOR FURTHER CONSIDERATION TODAY. **Note: matter was continued to allow time for the appellants to review the revised plans dated Nov. 08, 2013; no additional briefing is allowed.**

ACTION: This matter was withdrawn prior to hearing.

SPEAKERS: None.

PUBLIC COMMENT: None.

(8) **APPEAL NO. 13-108**

JOHN TYNAN, JASON THRUPP & KURT MUELLER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1980 Golden Gate Avenue. Protesting the ISSUANCE on April 18, 2013, to Urban Green Investments LLC, Alteration Permit (repair wood frame in basement; replace retaining wall in basement; rebuild one bay window). APPLICATION NO. 2012/10/29/2977. JURISDICTION GRANTED August 21, 2013. FOR HEARING TODAY.

ACTION: Upon motion by President Hwang, the Board voted 5-0 to grant the appeal and issue the permit on the condition that it be revised to reflect plans dated November 4, 2013 and on the basis that it is Code compliant.

SPEAKERS: Raquel Fox, attorney for appellants; John Tynan, appellant; Kurt Mueller, appellant; Lenny Tremmel, agent for appellants; Ryan Patterson, attorney for permit holder; Ronald Hamburger, agent for permit holder; Jason Towle, agent for permit holder; Michael Karpowicz, agent for permit holder, Trevor Doherly, agent for permit holder: Joseph Duffy, DBI; Corey Teague, ZA.

PUBLIC COMMENT: None.

ITEMS (9A) AND (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 13-109**

MARIPOSA UTAH NEIGHBORHOOD ASSOCIATION, Appellant(s) vs. PLANNING COMMISSION, Respondent	480 Potrero Avenue. Protesting the ISSUANCE on August 08, 2013, to Reza Khoshnevisan @ SIA Consulting Corp., SEC. 329 ADOPTION OF FINDINGS - LARGE PROJECT AUTHORIZATION (to allow construction of new six-story, 58-foot tall building with up to 75 dwelling units, approx. 970sf of retail, and up to 47 off-street parking spaces). CASE NO. 2011.0430XE. MOTION NO. 18945. FOR HEARING TODAY.

(9B) **APPEAL NO. 13-111**

MICA RINGEL, Appellant(s) vs. PLANNING COMMISSION, Respondent	480 Potrero Avenue. Protesting the ISSUANCE on August 08, 2013, to Reza Khoshnevisan @ SIA Consulting Corp., SEC. 329 ADOPTION OF FINDINGS - LARGE PROJECT AUTHORIZATION (to allow construction of new six-story, 58-foot tall building with up to 75 dwelling units, approx. 970sf of retail, and up to 47 off-street parking spaces). CASE NO. 2011.0430XE. MOTION NO. 18945. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Fung, the Board voted 3-0-2 (Commissioner Honda and Commissioner Hurtado recused) to deny the appeals and uphold the motion for the reasons stated in the Planning Commission motion and with the adoption of the California Environmental Quality Act (CEQA) findings displayed on the monitor at the hearing.

SPEAKERS: Mica Ringel, appellant (Appeal No. 13-111); Jean Bogiajes, agent for appellant (Appeal No. 13-109); Juan Jayo, attorney for appellant (Appeal No. 13-109); Sufi Tahbazof Hariri, agent for motion holder; John Kevlin, attorney for motion holder; Corey Teague, ZA.

PUBLIC COMMENT: J.R. Eppler, Robin Talmage, Mari Eliza, Jeff Van Earwage, Robert Broucaret, Dean Dinell, Denny Chen, Olga Kist and Michael Hunter spoke in support of the appellant. Larry Del Carlo and Lucio Sanchez spoke in support of the motion holder.

(10) **APPEAL NO. 13-117**

BILL & LUBA GOWER, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2258 Jackson Street. Protesting the ISSUANCE on August 21, 2013, to Andy Scott, Alteration Permit (replacement of front retaining wall; match height; decorative rail atop retaining wall; decorative pilasters and gate). APPLICATION NO. 2013/08/16/4541. FOR HEARING TODAY.

ACTION: This matter was withdrawn prior to hearing.

SPEAKERS: None.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Hwang adjourned the meeting at 11:05 p.m.