BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JANUARY 09, 2013

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

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

Robert Bryan, Deputy City Attorney, Office of the City Attorney (OCA); Scott Sanchez, Zoning Administrator (ZA); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Patrick O'Riordan, Senior Building Inspector, DBI; John Kwong, Manager, Department of Public Works Bureau of Street Use and Mapping, (DPW BSM); Cynthia Goldstein, Executive Director; Victor Pacheco, Legal Assistant.

ABSENT: President Chris Hwang.

(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.

SPEAKERS: None.

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

SPEAKERS: Commissioner Lazarus announced that she will be absent from the January 30, 2013 and February 13, 2013 Board meetings.

PUBLIC COMMENT: None.

(3) **ADOPTION OF MINUTES:**

Discussion and possible adoption of the December 12, 2012 minutes.

ACTION: Upon motion by Vice President Fung, the Board voted 4-0-1 (President Hwang absent) to adopt the December 12, 2012 minutes.

PUBLIC COMMENT: None.

(4) **ADDENDUM ITEMS:**

(4a) **REHEARING REQUEST:**

Subject property at 1195 Quesada Street. Letter from William Coggan, SFPD Permit Hearing Officer, requesting rehearing of Appeal No. 12-089, Johnson vs. SFPD, decided Nov. 07, 2012. At that time, the Board voted 3-1-1 (Commissioner Lazarus dissented, one vacancy) to grant the appeal, overrule the denial of Tow Car Operator Permit, and issue the permit on the basis that the appellant fully disclosed his conviction history at the time he applied for the permit and that there is no proof in the record of any conviction. Appellant: Henry Johnson.

ACTION: Upon motion by Commissioner Lazarus, the Board voted 2-2-1 (Vice President Fung and Commissioner Honda dissented and President Hwang absent) to grant the request and rehear the appeal. Lacking the four votes needed to pass, the motion failed. With no further motion made, the rehearing request is denied by operation of law.

SPEAKERS: William Coggan, agent for requestor; Henry Johnson Jr., agent for permit holder.

PUBLIC COMMENT: None.

(5) **APPEAL NO. 12-132**

ROXIE MARKET & DELI, Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	500 Kirkham Street. Appealing a twenty-five (25) day suspension of a Tobacco Product Sales Permit, imposed on Oct. 12, 2012. Reason(s) for suspension: selling tobacco products to minors. DIRECTOR'S CASE NO. SMK-1233. FOR HEARING TODAY.

This matter was withdrawn by the appellant prior to hearing and was not heard.

(6) **APPEAL NO. 12-137**

WARREN McGRATH & MARK GOLDSTEIN, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	2300 – 33rd Avenue. Protesting the issuance on Oct. 25, 2012, to NextG Networks of California Inc. (now Crown Castle), Personal Wireless Service Facility Site Permit. PERMIT NO. 11WR-0082. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to deny the appeal and uphold the permit for the reasons stated by the permit holder at hearing.

SPEAKERS: Appellants did not appear. Natasha Ernst, agent for permit holder; John Kwong, DPW BSM.

PUBLIC COMMENT: None.

(7) **APPEAL NO. 12-130**

BAY VIEW OFFICE FOR COMMUNITY PLANNING, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2065 Oakdale Avenue. Protesting the issuance on October 11, 2012, to Jack Tsang, Permit to Alter a Building (remove deteriorated vacant warehouse building; existing main building to remain). APPLICATION NO. 2012/10/09/1608. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to grant the appeal and uphold the permit on the basis of the permit holder's agreement to send out neighborhood notification on all permit applications submitted during the next five years excluding permits needed to correct existing Notices of Violation against the property. Such notification shall conform to the notice requirements imposed by DBI on Form 6 Building Demolition Permits. In addition, the suspension of this permit shall not be lifted until the permit holder provides the appellant and DBI with soils testing results that have been prepared by a certified professional soils testing laboratory.

SPEAKERS: Dan Dodt, agent for appellant; David Silverman, attorney for permit holder; Patrick Buscovich, agent for permit holder; Chris Ricard, agent for permit holder; Patrick O'Riordan, DBI; Scott Sanchez, ZA.

PUBLIC COMMENT: Earl Shaddix, William Farley, Esselene Stancil, Sue Ellen Smith, Sean Karlin, Barbara Orkel, Robert Davis, Ann deJesús, Joe Boss, Michael Hamman, Espanola Jackson and Dorothy Peterson spoke in support of the appellant.

(8) **APPEAL NO. 12-140**

QUENTIN KOPP, LAKESHORE ACRES IMPROVEMENT CLUB, CALVARY ARMENIAN CONGREGATIONAL CHURCH, LAKE MERCED CHURCH OF CHRIST, SAINT GREGORY ARMENIAN APOSTOLIC CHURCH / KZV ARMENIAN SCHOOL, BRANDEIS HILLEL DAY SCHOOL, RICHMOND BROTHERHOOD MASONIC TEMPLE, DENISE LaPOINTE, LINDA SHAH, CONGREGATION BETH ISRAEL JUDEA, AND HOLY TRINITY GREEK ORTHODOX CHURCH, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent Subject Prop. Owner: RCS BROTHERHOOD WAY LLC	800 Brotherhood Way. Protesting a Letter of Determination dated Oct. 26, 2012, addressed to Ilene Dick at Farella Braun & Martel LLP, that the Conditional Use authorization under Planning Commission Motion No. 17022 for a residential Planned Unit Development with up to 182 dwelling units at the subject property, which was approved on May 19, 2005, is still valid.

ACTION: Upon motion by Commissioner Lazarus, the Board voted 4-0-1 (President Hwang absent) to deny the appeal and uphold the Letter of Determination on the basis that the Zoning Administrator did not err or abuse his discretion.

SPEAKERS: Quentin Kopp, appellant; Steven Vettel, attorney for determination holder; Scott Sanchez, ZA.

PUBLIC COMMENT: David Pilpel asked how the term "lapse of use" is defined, encouraged appellants to file a Block Book Notification, and discussed the environmental findings associated with the project.

Julian Lagos, Mike Dwyer, Cathy Lentz, Tony Hall and Andrew Thanos spoke in support of the appellant.

(9) **APPEAL NO. 12-144**

RICHARD & DENISE WALL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2652 Chestnut Street. Protesting the issuance on Nov. 06, 2012, to Ronald Sires, Permit to Alter a Building (one story vertical addition with access to roof; expand garage; remodel rooms; change full bath to ½ bath at 2nd floor; new bathrooms, new bedrooms and master suite at 3rd floor). APPLICATION NO. 2009/06/05/9880S. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Hurtado, the Board voted 4-0-1 (President Hwang absent) to deny the appeal and uphold the permit on the basis that the Planning Code Section 311 notice has not expired and the permit was property issued.

SPEAKERS: Richard Wall, appellant; Denise Wall, appellant; Rajat Randev, agent for appellants; Ronald Sires, permit holder; John Lau, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Zack Rogers, Elena Micheli and David Blatteis spoke in support of the appellants.

ADJOURNMENT.

Commissioner Lazarus noted the recent passing of Claire Pilcher, who served both as a member of the Board of Appeals and as the department's director, and asked that the meeting be adjourned in her memory. There being no further business, Vice President Fung adjourned the meeting at 9:25 p.m. in memory of Claire Pilcher.