BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 16, 2011

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

PRESENT: Vice President Michael Garcia, Commissioner Frank Fung, Commissioner Chris Hwang and Commissioner Tanya Peterson.

Francesca Gessner, Deputy City Attorney, Office of the City Attorney (OCA); Scott Sanchez, Zoning Administrator (ZA); Joseph Duffy, Senior Building Inspector, Department of Building Inspection (DBI); Tom Venizelos, Senior Building Inspector, (DBI); Dan Sider, Senior Planner, Planning Department (PD); Carla Short, Urban Forester, Department of Public Works, Bureau of Urban Forestry (DPW BUF); John Kwong, Permit Manager, Department of Public Works, Bureau of Street Use and Mapping (DPW, BSM); Cynthia Goldstein, Executive Director; Xiomara Velez, Legal Process Clerk.

ABSENT: President Kendall Goh.

(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: Laurence Kornfield announced that he will be leaving the Department of Building Inspection to take a position with the Office of the City Administrator, overseeing the City's earthquake hazard reduction program. He thanked the Board for the opportunity to participate in its work and expressed how meaningful it has been to him. Vice President Garcia, Commissioners Peterson, Hwang and Fung all expressed their appreciation for his contribution to the work of the Board over several decades and wished him well on his new endeavors.

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

SPEAKERS: None.

(3) **ADOPTION OF MINUTES:**

Discussion and possible adoption of the March 09, 2011 minutes.

ACTION: Upon motion by Vice President Garcia, the Board voted 4-0-1 (President Goh absent) to adopt the March 9, 2011 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4) **ADDENDUM ITEMS:**

(4a) **ADOPTION OF FINDINGS:**

Subject property at 1400 Grant Avenue aka 468 Green Street. Appeal No. 10-097, Crown Fortune Properties vs. Zoning Administrator, decided January 19, 2011. At that time, the Board voted 5-0 to grant the appeal and overrule the Zoning Administrator with the adoption of findings at a later time. Subject Action: Notice of Violation and Penalty dated Aug. 17, 2010, addressed to PGB LLC and Crown Fortune Properties, regarding the business professional service use located at the subject property, in violation of the Planning Code.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (President Goh absent) to adopt the findings.

SPEAKERS: None.

PUBLIC COMMENT: None.

(4b) **JURISDICTION REQUESTS:**

Subject property at 1338 Filbert Street. Letter from Susan Brandt-Hawley, attorney for Jerry DeMartini, requestor, asking that the Board allow the filing of appeals against BPA Nos. 2008/10/27/5223, 2010/09/27/1690, and 2010/09/27/1691, which were all issued on Jan. 31, 2011, and all were determined to be issued pursuant to a Conditional Use (CU) authorization and thus un-appealable under the City Charter. Permit Holders: Dominique Lahaussois and David Low. Project, 1st permit: parking garage only; two duplexes above under separate permit. Project, 2nd permit: renovation and remodel of two existing landmark cottages and an artist studio. Project,

3rd permit: renovation and remodel of two existing landmark cottages. **NOTE: Public hearing held on March 9, 2010; matter continued to allow for the submittal of additional evidence.**

ACTION: Upon motion by Vice President Garcia, the Board voted 4-0-1 (President Goh absent) to deny the jurisdiction requests.

SPEAKERS: Susan Brandt-Hawley, attorney for requestor; Andrew Junius, attorney for permit holder; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(4c) **REHEARING REQUESTS:**

Subject property at 2139 Taraval Street. Letter from Derek St. Pierre, attorney for Greg Schoepp, permit holder, requesting rehearing of Appeal Nos. 10-105/106. On Nov. 17, 2010, the Board voted 4-0-1 to revoke the subject permit, and on Feb. 09, 2011, the Board voted 5-0 to adopt findings with amendments. Appellants: Canaan Tutoring Center Service, and Chinese GospelChurch. Project: new medical cannabis dispensary (MCD) in former chiropractor's office; minor interior alterations; BPA No. 2009/12/03/2572.

ACTION: Upon motion by Vice President Garcia, the Board voted 3-1-1 (Commissioner Hwang dissent and President Goh absent) to deny the rehearing requests.

SPEAKERS: Derek St. Pierre, attorney for requestor; Ross Moody, agent for appellant Canaan Tutoring Center Service; Scott Sanchez, ZA.

PUBLIC COMMENT: Maureen Burns, Elliott Wright, Shane Gibson, Stacia Scott, Floyd Rowrey, Kevin Johnson, Kathy Valaez, Lisa Cooper, Fred Martin, Edward Breslin, Thomas Hobby, Archie Hinkle, Jon Martinelli, Kerrigan Logan, Brent Saupe, Ivan Foxx, Michelle Amos, Steven Crane, Christine Moyer, Paul Hansbury, Jeffrey Dupuis, Henry J.W., Michael Goldman, Theresa Cooper, Gregory Ledbetter, Timothy Joseph Hawkins, Denise Dorey, Cora Glenn, Jae Sohn and Shona Gocheneau spoke in support of the requestor.

Nancy Wuerfel spoke in support of the appellant.

Cammy Blackstone, appearing on behalf of Supervisor Carmen Chu, answered Commissioner questions.

(4d) **REHEARING REQUEST:**

Subject property at 3175 – 24th Street. Letter from Jana Farrell, agent for Virginia Ramos, appellant, requesting rehearing of Appeal No. 10-136, decided Feb. 09, 2011. At that time, the Board voted 2-3 to grant the appeal, overturn the department, with adoption of findings at a later time. Four votes being required to overturn or modify any departmental action under the City Charter, the departmental action to issue the subject permit was upheld. Requestor of Permit: CBS Outdoor Inc.. Project: voluntary removal of 6' X 12' freestanding advertising sign; property owner consent attached; BPA No. 2009/11/12/1004.

ACTION: Upon motion by Commissioner Peterson, the Board voted 4-0-1 (President Goh absent) to grant the rehearing request and to rehear this matter on April 20, 2011, with additional briefing and testimony per the Board's Rules.

SPEAKERS: Jana Farrell, agent for requestor; Anthony Leones, attorney for CBS Outdoor Inc.; Dan Sider, PD.

PUBLIC COMMENT: None.

(4e) **REHEARING REQUESTS:**

Subject property at 1468 Folsom Street. Letter from Sean Marciniak, attorney for CBS Outdoor Inc., appellant, and a letter from Guerrero Espinoza, agent for Bay Community Housing LP, permit holder, requesting rehearing of Appeal No. 10-132, decided Feb. 09, 2011. At that time, the Board voted 3-2 to uphold the permit on the basis that it complies with the Code, and the City did not err in issuing said permit. Project: removal of 14' X 23' general advertising wall sign per DCP NOV; BPA No. 2010/10/13/2815.

ACTION: Upon motion by Commissioner Fung, the Board voted 4-0-1 (President Goh absent) to continue this matter to April 6, 2011 to allow time for CBS Outdoor Inc. to provide the Board with copies of its contract with the property owner or the property owner's predecessor.

SPEAKERS: Anthony Leones, attorney for requestor CBS Outdoor Inc.; Guerrero Espinoza, agent for requestor Bay Community Housing LP; Dan Sider, PD; Joseph Duffy, DBI.

PUBLIC COMMENT: None.

(4f) **JURISDICTION REQUEST:**

Subject property at 3206 Jackson Street. Letter from George Chan, requestor, asking that the Board take jurisdiction of BPA No. 2010/10/06/2397, which was issued on Jan. 04, 2011. The appeal period ended on Jan. 19, 2011, and the Jurisdiction Request was received at the Board office on Feb. 28,

2011. Permit Holders: Renu Agrawal and David Weber. Project: replace front/rear shingles with stucco; replace windows and modify openings; widen garage door; modify entry stairs; new deck railings; replace sliding glass doors and modify opening; infill deck area and foyer; add bedroom; relocate legal bathroom; remodel kitchen; relocate powder room; remodel master and staircase; add flat skylite.

WITHDRAWN.

(5) **APPEAL NO. 11-003**

MISSION DOLORES CITIZENS FOR HEALTHY TREES, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent Requestor of Permit: HOUSING AUTHORITY	1855 – 15th Street. Appealing the denial on Jan. 03, 2011, of Tree Removal Permit (four trees). ORDER NO. 179,025. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Hwang, the Board voted 4-0-1 (President Goh absent) to deny the appeal and uphold the department.

SPEAKERS: Clair Bright, agent for appellant; Marie Swanson, agent for permit holder; Carla Short, DPW BUF.

PUBLIC COMMENT: David Scott and Richard Fong spoke in support of the department. Paul Hastings spoke in support of the appellant.

(6) **APPEAL NO. 11-004**

JEFF & NICOLE COOPER, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	156 – 27th Avenue. Protesting the issuance on Sept. 08, 2010, to NextG Network Inc., Wireless Box Permit. PERMIT NO. 10WR-0021. JURISDICTION GRANTED JAN. 12, 2011. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Garcia, the Board voted 4-0-1 (President Goh absent) to grant the appeal and revoke the permit with the adoption of findings at a later time.

SPEAKERS: Jeff Cooper, appellant; Natasha Ernst, attorney for permit holder; John Kwong, DPW BSM; Scott Sanchez, ZA.

PUBLIC COMMENT: Doug Loranger, Gay Outlaw, David Tornheim, Alex Wong and Lisa Klinck-Shea spoke in support of the appellants.

(7) **APPEAL NO. 11-005**

DAVID TORNHEIM, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF STREET-USE & MAPPING, Respondent	36 Ashbury Street. Protesting the issuance on Oct. 26, 2010, to NextG Network Inc., Wireless Box Permit. PERMIT NO. 10WR-0116. JURISDICTION GRANTED JAN. 12, 2011. FOR HEARING TODAY.

ACTION: Upon motion by Vice President Garcia, the Board voted 3-1-1 (Commissioner Hwang dissented and President Goh absent) to deny the appeal and uphold the department.

SPEAKERS: David Tornheim, appellant; Natasha Ernst, attorney for permit holder; John Kwong, DPW BSM; Scott Sanchez, ZA.

PUBLIC COMMENT: Joseph Semprevio, Linda Yacobucci, Doug Loranger, Jeff Cooper, Alex Wong and Wendy Robinson spoke in support of the appellant.

ITEMS (8A), (8B) AND (8C) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 11-007**

NANCY WUERFEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2514 – 23rd Avenue. Protesting the issuance on Jan. 20, 2011, to Mary Galvin, Permit to Alter a Building (comply with NOV's; replace skylights; new gutters and downspouts; replace broken windows; replace rear patio doors; misc. siding repair; mold remediation at basement level; removal of sheetrock). APPLICATION NO. 2011/01/20/8698. FOR HEARING TODAY.

(8B) **APPEAL NO. 11-008**

NANCY WUERFEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2514 – 23rd Avenue. Protesting the issuance on Jan. 20, 2011, to Mary Galvin, Permit to Alter a Building (re-roofing of existing roof areas less dormer). APPLICATION NO. 2011/01/20/8701. FOR HEARING TODAY.

(8C) **APPEAL NO. 11-020**

NANCY WUERFEL, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	2514 – 23rd Avenue. Protesting the issuance on Feb. 09, 2011, to Mary Galvin, Plumbing Permit (replace shower and sink of the same kind). APPLICATION NO. PP2011/02/09/927. FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Hwang, the Board voted 4-0-1 (President Goh absent) to deny the three appeals and uphold the three permits on the basis that the permits are to respond to Notices of Violation (NOVs).

SPEAKERS: Nancy Wuerfel, appellant; Mary Galvin, permit holder; Tom Venizelos, DBI.

PUBLIC COMMENT: Joe O'Donoghue and Sherrie Matza spoke in support of the permit holder; Linda Yacobucci spoke in support of the appellant.

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

(9A) **APPEAL NO. 11-010**

DEAN PRESTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	401 Divisadero Street. Protesting the issuance on Jan. 10, 2011, to John Brennan, Permit to Alter a Building (Chase Bank; install 8 awnings; signs under separate permit). APPLICATION NO. 2010/12/29/7555. FOR HEARING TODAY.

(9B) **APPEAL NO. 11-011**

DEAN PRESTON, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent	401 Divisadero Street. Protesting the issuance on Jan. 10, 2011, to John Brennan, Permit to Alter a Building (Chase Bank; revision to BPA No. 2010/10/18/3214; includes window and brick wainscotting modifications; revised floor heights and associated ramp; revised entry and structural revisions for door and ATM openings). APPLICATION NO. 2011/01/07/8051. FOR HEARING TODAY.

ACTION on Appeal No. 11-010: Upon motion by Vice President Garcia, the Board voted 3-1-1 (Commissioner Hwang dissented and President Goh absent) to deny the appeal and uphold the department.

ACTION on Appeal No. 11-011: Upon motion by Vice President Garcia, the Board voted 3-1-1 (Commissioner Hwang dissented and President Goh absent) to grant the appeal and condition the permit so that it be revised to reflect the changes in Addendum #2 (date 1/27/11) provided that this revision does not cause the overall square footage to exceed 3,999 square feet. Lacking the four votes needed to pass, the motion failed. Upon further motion by Vice President Garcia, the Board voted 4-0-1 (President Goh absent) to continue this item to March 23, 2011 to allow President Goh to participate in the vote.

SPEAKERS: Dean Preston, appellant; Christine Griffith, attorney for permit holder; John Pollard, agent for permit holder; Scott Sanchez, ZA; Joseph Duffy, DBI.

PUBLIC COMMENT: Jonah Horowitz, Sherrie Matza, Joseph Kasarda, Michael Musleh, Joe O'Donoghue, John Kerley, Patrick Kerley, Dan Kerley, Gerry

Agosta, Fergis O' Sullivan, Peter Pratt and Kathleen Crichton spoke in support of the permit holder.

David Tornheim, Sommer Peterson, Dan Nguyen-Tan, Amy Weiss, Mark Gaffney, Quentin Mecke, Gus Hernandez, Richard Kay, Ilyse Magy, Chris Jones, Hallie Albert, Remy Nelson and Julian Davis spoke in support of the appellant.

ADJOURNMENT.

There being no further business, Vice President Garcia adjourned the meeting at 12:40 a.m.