

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Marc Bruno (in pro per)
15 Nobles Alley
San Francisco, CA 94133 XXX: 415-434-1528 Ph.
TELEPHONE NO.:
ATTORNEY FOR (Name): **Petitioner and Plaintiff:**

ENDORSED
FILED
Superior Court of California
County of San Francisco

DEC 14 2017

CLERK OF THE COURT
BY: **ROSSALY DELAVEGA**
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF **San Francisco**
STREET ADDRESS: **400 McAllister St**
MAILING ADDRESS:
CITY AND ZIP CODE: **San Francisco, CA 94102**
BRANCH NAME: **Civic Center Court House**

CASE NAME:
Marc Bruno & Save North Beach v City County SF

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded is exceeds \$25,000) **Limited** (Amount demanded is \$25,000 or less)
 Counter **Joinder**
Complex Case Designation
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
CPF-17-515971
JUDGE:
DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|---|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46) <p>Other PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/W/D (23) <p>Non-PI/PD/W/D (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/W/D tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input checked="" type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **3**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case (You may use Form CM-015.)

Date: **Dec 14 2017**
(TYPE OR PRINT NAME)

Marc Bruno
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

1 Marc Bruno, in pro per
2 15 Nobles Alley
3 San Francisco, CA 94133
4 marcabruno@yahoo.com
5 Tel: (415) 434-1528
6
7
8

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FILED**
Superior Court of California
County of San Francisco
DEC 14 2017
CLERK OF THE COURT
BY: ROSSALY DELAVEGA
Deputy Clerk

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN FRANCISCO**

11 MARC BRUNO, an individual, and
12 Representative of SAVE NORTH BEACH, a
13 non-profit unincorporated association,

14 Petitioners and Plaintiffs,

15 vs.

16 CITY AND COUNTY OF SAN FRANCISCO;
17 BOARD OF SUPERVISORS FOR THE CITY
18 AND COUNTY OF SAN FRANCISCO; SAN
19 FRANCISCO PLANNING DEPARTMENT;
20 SAN FRANCISCO BOARD OF APPEALS and
21 DOES I THROUGH XX, INCLUSIVE

22 Respondents and Defendants;

23 and

24 EUSTACHE DE ST. PHALLE and DUDLEY
25 DE ST. PHALLE, and ROES I THROUGH XX,
26 INCLUSIVE,

27 Real Parties in Interest and Defendants.
28

Case No **CPF-17-515971**

**PETITIONERS' NOTICE OF INTENT
TO PREPARE ADMINISTRATIVE
RECORD**

(Pub. Resources Code, section 21167.6(b))

Dept: CEQA Case

1 Pursuant to Public Resources Code section 21167.6(b)(2), Petitioner-Plaintiffs hereby
2 notify all parties that they elect to prepare the administrative record relating to the above-
3 captioned action relating to Respondent Board of Supervisors of the City and County of San
4 Francisco's ("Board") approval of the CEQA Categorical Exemption Determination proposed by
5 the San Francisco Planning Department for 20 Nobles Alley (Block Lot 0104/025) and issuance
6 of such categorical exemption for the Project, illegally exempting the Project from review under
7 the California Environmental Quality Act ("CEQA"), Pub. Res. Code ("PRC") § 21000, et seq.

8
9 In so doing, the Board voted to uphold the September 13, 2017 Notice of Decision by the
10 San Francisco Board of Appeals approving Appeal No. 17-088, upon which the above referenced
11 CEQA Categorical Exemption is reliant, illegally ignoring an on-going investigation by the San
12 Francisco Ethics Commission of multiple Conflict of Interest Complaints against Mr. Richard
13 Swig, a Member of the Board of Appeals, and Mr. Patrick Buscovich, a Member of the Board of
14 Examiners, whose joint participation in the Appeals proceeding was prejudicial and illegal.

15
16 In so doing, the Board also illegally overturned its own legislative mandate, issued after
17 due deliberations in 2010, to prohibit all new garages in the "Telegraph Hill North Beach Special
18 Use District" on right of ways under 41 feet in width. This legislative mandate is expressed in
19 Planning Code Section 249.49.

20
21 Respondents, Real Parties in Interest and Defendants are directed *not* to prepare the
22 administrative record for this action and not to expend any resources to prepare said
23 administrative record.

24
25 Dated: December 12, 2017

26 
27 Marc Bruno
28 Petitioner and Plaintiff

Marc Bruno, in pro per
15 Nobles Alley
San Francisco, CA 94133
415-434-1528

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Superior Court of California
County of San Francisco
DEC 14 2017
CLERK OF THE COURT
BY: ROSSALY DELAVEGA
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

MARC BRUNO, an individual, and
Representative of SAVE NORTH BEACH, a
non-profit unincorporated association,

Petitioners and Plaintiffs,
vs.

CITY AND COUNTY OF SAN
FRANCISCO; BOARD OF SUPERVISORS
FOR THE CITY AND COUNTY OF SAN
FRANCISCO; SAN FRANCISCO
PLANNING DEPARTMENT; SAN
FRANCISCO BOARD OF APPEALS and
DOES I THROUGH XX, INCLUSIVE

Respondents and Defendants;
and

EUSTACHE DE ST. PHALLE and DUDLEY
DE ST. PHALLE, and ROES I THROUGH
XX, INCLUSIVE,

Real Parties in Interest and Defendants.

Case No.

CPF-17-515971

**VERIFIED PETITION FOR WRIT OF
ADMINISTRATIVE MANDAMUS UNDER THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT
(CEQA)**

Hearing Date:

Hearing Judge:

Time:

Place: Dept. 503

Date Action Filed: December 14, 2017

Trial Date:

1. Petitioner Plaintiff Marc Bruno, an individual residing in San Francisco, and Save North Beach, a non-profit association, hereby petition this Court under California Code of Civil Procedure ("CCP") Section 1094.5 for issuance of a Writ of Administrative Mandamus to Respondent City and County of an Francisco ("City" or "CCSF"), Respondent Board of Supervisors for the City and County of San Francisco ("Board"), et al. .

VERIFIED PETITION FOR WRIT OF MANDAMUS; WRIT OF ADMINISTRATIVE
MANDATE UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

2. Petitioners intend to show that Respondent - Defendants' reports, plans, investigations and statements to the Board of Supervisors and to the Board of Appeals conclusively prove that approval of the CEQA Categorical Exemption Determination proposed by the San Francisco Planning Department for 20 Nobles Alley (Block Lot 0104/025) and issuance of such categorical exemption illegally exempts the Project from review under the California Environmental Quality Act ("CEQA"), Pub. Res. Code ("PRC") § 21000, et seq.

3. Petitioner Plaintiffs allege that the most rudimentary public disclosure requirements under CEQA and under the City Sunshine Ordinance will be violated should the Categorical Exemption at-issue here not be set aside. Petitioners ask the Court to take judicial notice of the current Sunshine Ordinance Task Force Complaint-- filed in this matter against Respondent Planning Department and Respondent Board of Appeals-- based on the failure of these departments and agencies to adequately inform the public of the permit applications and construction plans at issue in this matter, as required by law.

4. Petitioner Plaintiffs further allege that the City's Ethics Code and the Political Reform Act of 1974 (a.k.a. the California Governmental Conduct Code) shall be violated should the Board of Supervisors' decision to uphold the Categorical Exemption not be overturned by this court. By voting to not continue its deliberations at a later date, the Board of Supervisors also unreasonably ignored on-going investigation by the San Francisco Ethics Commission of multiple Conflict of Interest Complaints against Mr. Richard Swig, a Member of the Board of Appeals, and Mr. Patrick Buscovich, a Member of the Board of Examiners, whose joint participation in the Appeals proceeding on this matter contradicts and undermines the aforementioned Ethics Code and Political Reform Act.

5. Petitioners further intend to show that the City of San Francisco Planning Code Section 249.49, the express public policy of which is the prohibition of additional garages in the *Telegraph Hill North Beach Special Use District* shall be made ineffective and the very public for which it was written shall be irreparably harmed should the Board of Supervisors Motion be left to stand.

PARTIES

6. Petitioner Marc Bruno, an individual citizen residing in San Francisco, has lived at his current address in North Beach since April, 1986. He is a community organizer who regularly works with the homeless and poor.

7. Petitioner Save North Beach is a non-profit association for which corporate 501(c)(4) status is pending. Members of the organization live in, work in, own property in and/or own a business or business-*es* in the Telegraph Hill North Beach Special Use District and San Francisco Supervisorial District 3. The organization is dedicated to preserving the cultural wealth and environmental integrity of the neighborhood by serving the poorest of the poor and by serving those who face eviction from their apartments and homes. The organization also serves as a policy forum in favor of environmental justice.

8. The CCSF, at all times pertinent herein, was and is a municipal corporation organized and existing under the laws of the State of California and the municipal charter.

– 9. The Board of Supervisors, at all times pertinent herein, was and is now a legally constituted body of the CCSF organized under Article 2 of the City Charter. Pursuant to § 21151(c) of the Public Resources Code, CEQA Guidelines §§15061(e) and 15704(f), the Board as the duly decision making body and acting in quasi-judicial capacity, is responsible for hearing and acting on appeals challenging the issuance of an approved Categorical Exemption.

10. The Board of Appeals for the City and County of San Francisco, was and is now a legally constituted body of the CCSF duly organized under the City Charter. The Board of Appeals, formerly, until 1998, the Board of Permit Appeals, typically considers many building permit matters within the boundaries of the City and County. Its character and procedural obligations are labeled *quasi-judicial*, as described in its own rules and regulations and confirmed by numerous Opinions of the San Francisco City Attorney.

11. The Planning Department for the City and County of San Francisco, was and is now a legally constituted body of the CCSF duly organized under the City Charter.

12. Petitioner is ignorant of the true names and capacities of DOES I through XX, inclusive, and of the true names and capacities of ROES I through XX, inclusive, and therefore sues said Respondents by such fictitious names. Petitioner will amend this Petition to allege their true names and capacities when ascertained.

JURISDICTION

13. This court has jurisdiction over this action pursuant to § 1094.5 of the California Code of Civil Procedure.

14. Venue is proper because the Respondents and the proposed Project Site are located in the City and County of San Francisco.

STANDING

15. Petitioner Plaintiff Marc Bruno, an individual citizen residing in San Francisco, is a "person" entitled to file an action under CEQA. "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, limited liability company. (CEQA Guidelines § 15376).

16. Petitioner Save North Beach, a non-profit association doing business in North Beach, is a "person" entitled to file an action under CEQA. "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, limited liability company. (CEQA Guidelines § 15376).

17. There is an accepted public policy in this state, encouraged by elected officials, administrative agencies and the courts "guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right." (Green v. Obledo (1981) 29 Cal.3d 126, 144.)

18. The "basic purposes of CEQA" include the following, according to CEQA Guidelines §15002:

- A. Inform government decision-makers and the public about the potential, significant environmental effects of proposed activities.
- B. Identify the ways environmental damage can be avoided or reduced.
- C. Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- D. Disclose to the public the reasons why a governmental agency approved a project in the manner the agency chose if significant environmental effects are involved.

19. The question in this action is one of public right and sound public policy.

20. Petitioners are an interested self-identified group of citizens and an individual citizen committed to having public laws including CEQA properly executed.

21. Petitioners are interested as an association of citizens and taxpayers, and as an individual citizen and taxpayer, in having all public resources including those designated for this project properly used and not wasted.

22. Petitioners have a genuine and continuing interest in and concern for the environment, including the effect on the environment of governmental activities such as those from which Petitioners seek relief in this action.

23. Petitioner Plaintiff Marc Bruno has standing as an individual to bring this action, because the interests of the Petitioner are adversely affected by the governmental decisions and actions from which relief is requested.

24. Prosecution of this action as a citizen's suit by Petitioner does not conflict with other competing legislative or public policies.

25. Petitioners complied with Public Resource Code §§ 21177(a) and (b) by filing the Objections herein attached. (Exhibit B)

26. Based on the foregoing, Petitioners have standing.

STATEMENT OF FACTS

27. Pursuant to California Public Resources Code § 2166(c) and Title XIV of the California Code of Regulations, § 15162, Respondents are requested to produce a supplemental and subsequent Environmental Impact Report.

As Respondents are proceeding with the project based on a defective EIR that has never been fully vetted by the citizens most directly affected by the impact of the project, Respondents also are requested to produce a programmatic or "Master" EIR.

28. Respondents have been requested on numerous occasions in person and by mail since August 9, 2016, to produce documents to satisfy Petitioners' concerns, but these documents have not been produced.

29. As Respondents insist on moving forward with their project in North Beach as soon as next week, we also pray for injunctive relief from such actions, until such time that Respondents produced the requested documents, the requested original and subsequent building plans and the original and subsequent Permit Application for the project.

30. Petitioner Plaintiffs face on-going and permanent harm should Respondents be permitted to move forward with their project in North Beach. Petitioners do not have a plain, speedy and adequate remedy at law other than to pray for injunctive relief and the other remedies requested herein.

In addition, the following facts regarding the Respondents' defective CEQA Categorical Exemption are alleged:

31. Mr. Eustache de St. Phalle, an attorney, filed an appeal to the Board of Appeals on or about June 7, 2017. (Appeal 17-088) On or about this day, Dudley de St. Phalle, Mr. de St. Phalle's wife, filed a seven-page brief to the Board asking it to overturn a decision made by the San Francisco Planning Department that a proposed garage at 20 Nobles Alley, a building owned by the de St. Phalles, be "disapproved." The de St. Phalle's appeal was scheduled to be heard July 12, 2017 in San Francisco City Hall, Room 466, at which time and place Mr. de St. Phalle and his wife, Dudley de St. Phalle, appeared before the Board.

32. At the meeting of the Board of Appeals on July 12, 2017, the following parties made presentations: Zoning Administrator Scott Sanchez, Planning Department; Bernie Curran, Department of Building Inspection; Dudley de St. Phalle; Patrick Buscovich, (representing appellants); Mr. Marc Bruno, a resident neighbor (and author of this complaint) and Mr. Brent McDonald, a resident neighbor and architect.

Mr. Sanchez, Mr. Curran, Mr. Bruno and Mr. McDonald spoke in favor of the Planning Department's "Notice to Disapprove." Appellant de St. Phalles and Mr. Buscovich spoke in opposition to the Planning Department disapproval.

33. de St. Phalle's appeal was discussed and voted on by Mr. Richard Swig and other members of the Board of Appeals on July 12. The Board voted unanimously to continue the matter until September 13, 2017, because it was made known during deliberations that contrary to Board Rules and Regulations no building plans had been submitted to the Board. (*San Francisco Business and Taxation Code*, Article 1 §§ 8, 10 - Method of Appeal to the Board of Appeals, "Record Forwarded.").

34. At the continuance of September 13, 2017, the following parties presented before the Board of Appeals: Scott Sanchez, Planning Department; Joseph Duffy, D.B.I., Eustache and Dudley de St. Phalle, appellants; Marc Bruno, a resident neighbor; Paul Lau, a resident neighbor;

Louis Biro, a resident neighbor and Brent McDonald, a resident neighbor and architect; Albert Yee, former owner of 20 Nobles Alley.

35. The four neighbors and former owner who appeared on September 13 testified in support of the Planning Department's disapproval of the garage/s. When questioned by the Board about the project, Zoning Administrator Scott Sanchez re-confirmed the Planning Department's disapproval:

"When the building with the garage doors was researched, 20 Nobles, there were no permits in the 1990s to do that. A garage existed-- magically appearing, it seems-- on a drawing in 1999 for an unrelated project. But there never was a permit that added one or more garage to the subject property, and that's where we are today. That we maintain that the garages are not legally existing. Neither one was ever legally existing on the property, and under the planning code today they cannot add one at this point. I think that's all I have to say. "

36. In addition to the in-person testimony at the hearing September 13, 2017, the Board received 16 letters of opposition and not one letter in favor of the project. Other than the permit-holders (the de St. Phalles) nobody testified in favor of the project. Mr. Patrick Buscovich did not present at the continuance hearing on September 13, although he was in the room and consulted with the de St. Phalles.

37. During the deliberations prior to the vote, Board Member Swig took the lead in announcing that he was in favor of the project and wanted to give the de St. Phalle's- who had just been told their time was up by the Board President, Darryl Honda-- more time to address the Board. At Mr. Swig's urging, the Board allowed the de St. Phalle's to re-address some of the issues raised at the hearing on September 13th Many of these same issues were raised and addressed at the hearing on July 12.

38. After additional deliberations led by Mr. Swig, the Board moved to approve the project, a vote was taken and the final ballot was 4 in favor and

one opposed. The sole opposing vote was by Board Member Ann Lazarus. A copy of the Board's "Notice of Decision" on Appeal 17-088 is attached, Exhibit 11.

EXHAUSTION OF ADMINISTRATIVE REMEDIES, TIMELINESS

39. Pursuant to Public Resource Code §§ 21177 (a) and (b), Petitioner has exhausted his administrative remedies. See Exhibits 14 and 15, attached.

40. Furthermore, the failure to disclose significant information, known to the Respondent Planning Department and Respondent Board of Appeals, withheld from the public, may only be remedied by now permitting the Petitioner Plaintiffs to sue on behalf of the public to remedy the harm caused by such non-disclosure, as noted herein.

FIRST CAUSE OF ACTION

41. Board of Supervisors Motion M15-175, upholding on November 14, 2017 the Categorical Exemption mischaracterizes the proposed permit application that is cited in the Motion. This application, P.A. 201608094528, specifically states that one garage door shall be removed *and moved to the center of the building at 20 Nobles Alley.*

42. By mischaracterizing the nature of the work proposed for the project, the Board of Supervisors misunderstood the outright contradiction between the proposed project and their own legislative mandate prohibiting new garages in North Beach. This mandate is embodied in Planning Code Section 249.49.

[See Exhibit 15: the above referenced Board of Supervisors' Motion, p. 1; Exhibits 3, 4, 5, 6: Permit Application 201608094528 as described by the Planning Department on its own website; Exhibit 1: Planning Code Section 249.49.]

43. By mischaracterizing the nature of the work proposed for the project, the Board of Supervisors mistakenly and illegally enforces a regulatory violation by the Board of Appeals, which in its regulations specifically precludes remanding a project back to the decision making agency. This regulations states: "The Board of Appeals cannot remand (send back) a decision to the underlying department for further review or action." [See Exhibit 8.]

SECOND CAUSE OF ACTION

44. In upholding the Categorical Exemption, the Board of Supervisors effectively voted to uphold the September 13, 2017 Notice of Decision by

the San Francisco Board of Appeals approving Appeal No. 17-088, unjustifiably ignoring an on-going investigation by the San Francisco Ethics Commission of multiple Conflict of Interest Complaints against Mr. Richard Swig, a Member of the Board of Appeals, and Mr. Patrick Buscovich, a Member of the Board of Examiners, whose joint participation in the Appeals proceeding was prejudicial and illegal.

45. The CEQA Categorical Exemption is dependent on the project sponsors' ability to legalize one of the two garages at 20 Nobles Alley, a nexus the planner for the project expressly confirms in the Categorical Exemption. If the underlying Board of Appeals' decision to legalize at least one garage is fatally flawed because of violations of the City Ethics Code and State Governmental Conduct Code, then, the CEQA Exemption cannot stand. By Respondents' own admission, Project Sponsors' conformity with the "Secretary of Interior's standards for Rehabilitation" is dependent upon Sponsors' ability to legalize at least one garage before the Board of Appeals. [Exhibit 10: pp 6, 7 and 8.]

THIRD CAUSE OF ACTION

46. The effect of a Categorical Exemption at 20 Nobles is to allow an illegal garage currently located there-- a garage which, being poorly designed, has never been used-- to be legalized and modified-for-use.

47. By adding this garage to the four block commercial corridor in the heart of the North Beach Historic District, the proposed project represents "substantial change that may effect the environment," a change that requires review under the California Environmental Quality Act.

48. "Categorical Exemption" means no review whatsoever. We ask instead for, at the very least, a Mitigated Negative Declaration, the only review that will give City residents a chance to protect this unique urban oasis, this pedestrian friendly and graceful alley.

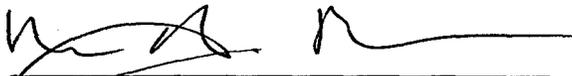
49. The surrounding alleyway and the North Beach Historic District is greatly damaged by the act of a garage or two being illegally installed at 20 Nobles Alley. A new baseline cannot be established here because the garages were built without plans, without permits, without input from the neighborhood and without approval by any city agency or department. To allow these garage/s to remain here is a fraud upon the Charter and inconsistent with the express and implied purpose of CEQA.

PRAYER FOR RELIEF

50. WHEREFORE, Petitioners pray for all of the following:

- A. A judgment that the building, modification, installation, creation and/or legalization of a new garage at the site 20 Nobles Alley be subject to CEQA review. At the very least, a conditional review is required in this matter.
- B. A peremptory writ of mandate directing Respondents to set aside all decisions and actions corresponding to the Categorical Exemption;
- C. A preliminary injunction prohibiting the real party in interest from executing those actions, including but not limited to demolition, conversion, remodeling or other actions that are required for the garage envisioned at 20 Nobles Alley;
- D. An administrative stay order, temporary restraining order, and/or preliminary injunction enjoining the Respondents, and the Real Parties in Interest, and their agents and employees from any and all physical actions in furtherance of the project;
- E. Costs of this action;
- F. Attorneys' Fees;
- G. For other such relief as the Court may deem just and proper.

DATED: December 14, 2017


MARC BRUNO, Petitioner Plaintiff

VERIFICATION

I, Marc Bruno, declare:

I am a resident of the City and County of San Francisco at the address listed above. I am filing this complaint in pro per, and I represent the interests of the organization Save North Beach, a non-profit association of which I am a founding member.

I have read the foregoing VERIFIED PETITION FOR WRIT OF ADMINISTRATIVE MANDATE UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; NOTICE OF INTENT TO FILE CEQA PETITION; and REQUEST FOR HEARING, and know the contents thereof.

I am informed and believe that the matters stated therein are true and, on that ground, I allege that the matters stated therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California on December 14, 2017,



MARC BRUNO, Petitioner Plaintiff

LIST OF EXHIBITS

1. San Francisco Planning Code, Section 249.49
2. Notice of Violation issued by SF DBI at 20 Nobles Alley, August 2, 2016
- 3., 4., 5., 6., Permit Details and Permit Tracking Documents, Planning Department, describing Permit Application ("P.A.") 201608094528, 20 Nobles Alley
7. Planning Notice of Disapproval, P.A. 201608094528 20 Nobles Alley
8. San Francisco Board of Appeals "Special Instructions for Parties"
9. Board of Appeals "Record Forwarded" Req's, S F Business and Tax Code
10. Categorical Exemption ("C.E.") 20 Nobles Alley
11. Notice of Decision (NOD) by Board of Appeals re: P.A. 201608094528
12. Appeal of Categorical Exemption, 20 Nobles Alley
13. Board of Supervisors Special Order 171053, in response to Item 12
14. Board of Supervisors' Clerk re: Board Decision on Appeal of C.E.
15. Board of Supervisors' Two Motions re: Appeal of C.E.

Exhibit 1

[Web Site: <http://planning.sanfranciscocode.org/2/249.49/>]

San Francisco Planning Code § 249.49.

TELEGRAPH HILL – NORTH BEACH
RESIDENTIAL SPECIAL USE DISTRICT

a.

Purposes. To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert existing residential buildings from rental buildings to tenancies-in-common.

b.

Applicability. The provisions of this Special Use District shall apply to the RH and RM zoned parcels within the area bounded by Bay Street on the north, The Embarcadero and Sansome Street on the east, Broadway on the South, and Columbus Avenue on the west, as shown on Sectional Map SU01 of the Zoning Map.

c.

Controls.

1.

Number of Off-Street Residential Parking Spaces. Up to three cars for each four dwelling units is a Permitted use; up to one car for each dwelling unit requires a Conditional use, subject to the criteria and procedures of Section 151.1(f); above one car for each dwelling unit is Not Permitted.

2.

Installation of a Parking Garage. Installation of a garage in an existing residential building of four or more units requires a mandatory discretionary review hearing by the Planning Commission; Section 311 notice is required for a building of less

than four units. In approving installation of the garage, the Commission shall find that: (1) the proposed garage opening/addition of off-street parking will not cause the “removal” or “conversion of residential unit,” as those terms are defined in Section 317 of this Code; (2) the proposed garage opening/addition of off-street parking will not substantially decrease the livability of a dwelling unit without increasing the floor area in a commensurate amount; (3) the building has not had two or more “no-fault” evictions, as defined in 37.9(a)(7)-(13) of the San Francisco Administrative Code, with each eviction associated with a separate unit(s) within the past ten years, (4) the garage would not front on a public right-of-way narrower than 41 feet, and (5) the proposed garage/addition of off-street parking installation is consistent with the Priority Policies of Section 101.1 of this Code.

Prior to the Planning Commission hearing, or prior to issuance of notification under Section 311(c)(2) of this Code, the Planning Department shall require a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the Department shall independently verify. The Department shall also have made a determination that the project complies with (4) and (5) above.

AMENDMENT HISTORY

History

(Added by Ord. 77-10, File No. 091165, App. 4/16/2010; amended by Ord. 176-12 , File No. 120472, App. 8/7/2012, Eff. 9/6/2012)

New division (b) added and former division (b) redesignated as current division (c); Ord. 176-12 , Eff. 9/6/2012.

Download

Plain TextJSON

Comments

Exhibit 2



NOTICE OF VIOLATION
of the San Francisco Municipal Codes Regarding Unsafe,
Substandard or Noncomplying Structure or Land or Occupancy

DEPARTMENT OF BUILDING INSPECTION NOTICE: 1
City and County of San Francisco
1660 Mission St. San Francisco, CA 94103

NUMBER: 201620916
DATE: 02-08-16

ADDRESS: 20 NOBLES A

OCCUPANCY/USE: R-3 (RESIDENTIAL- 1 & 2 UNIT DWELLINGS, TOWNHOUSES) BLOCK: 0104 LOT: 025

If checked, this information is based upon site-observation only. Further research may indicate that legal use is different. If so, a revised Notice of Violation will be issued.

OWNER/AGENT: SILVER HEIGHTS PROPERTIES LLC
MAILING: SILVER HEIGHTS PROPERTIES L
ADDRESS: SILVER HEIGHTS PROPERTIES,
P.O. BOX 882643
SAN FRANCISCO CA 94188

PHONE #: --

PERSON CONTACTED @ SITE: SILVER HEIGHTS PROPERTIES LLC

PHONE #: --

- VIOLATION DESCRIPTION:

	CODE/SECTION#
<input checked="" type="checkbox"/> WORK WITHOUT PERMIT	106.1.1
<input type="checkbox"/> ADDITIONAL WORK-PERMIT REQUIRED	106.4.7
<input type="checkbox"/> EXPIRED OR <input type="checkbox"/> CANCELLED PERMIT PA#:	106.4.4
<input type="checkbox"/> UNSAFE BUILDING <input type="checkbox"/> SEE ATTACHMENTS	102.1

A complaint has been filed with this department alleging 2 garages were built on the building permit. At time of inspection two garages were observed and there was no construction for garage doors and openings are unverifiable. Permit research indicated a permit for garage door alteration or addition.

Monthly monitoring fee

SFBC 103A, 102A.3 table 1A-K

CORRECTIVE ACTION:

STOP ALL WORK SFBC 104.2.4

FILE BUILDING PERMIT WITHIN 30 DAYS

(WITH PLANS) A copy of This Notice Must Accompany the Permit Application

OBTAIN PERMIT WITHIN 60 DAYS AND COMPLETE ALL WORK WITHIN 90 DAYS, INCLUDING FINAL INSPECTION SIGNOFF.

CORRECT VIOLATIONS WITHIN DAYS.

NO PERMIT REQUIRED

YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED , THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.

● FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN.
SEE ATTACHMENT FOR ADDITIONAL WARNINGS.

Provide documentation regarding the legality of garage area or obtain a building permit to legalize or revert back to last legal condition. Planning approval is required.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

9x FEE (WORK W/O PERMIT AFTER 9/1/60)

2x FEE (WORK EXCEEDING SCOPE OF PERMIT)

OTHER:

REINSPECTION FEE \$

NO PENALTY

(WORK W/O PERMIT PRIOR TO 9/1/60)

APPROX. DATE OF WORK W/O PERMIT

VALUE OF WORK PERFORMED W/O PERMITS \$

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Mauricio E Hernandez

PHONE # --

DIVISION: BID

DISTRICT :

By: (Inspectors's Signature) _____

Exhibit 3



DEPARTMENT OF BUILDING INSPECTION

City and County of San Francisco
1660 Mission Street, San Francisco, California 94103-2414

Date: 08/29/17 16:23:55

Permit details report

Application Number: 201608094528

Form Number: 3 Application GARAGE DOOR CORRECTION PER NOV 201620916- SEAL UNPERMITTED GARAGE
Description: DOOR, RELOCATE LEGAL GARAGE DOOR TO CENTER OF GROUND FLOOR.

Address: 0104/025/0 20 NOBLES AL

Cost: \$5,000

Occupancy code: R-2

Building Use: 24 APARTMENTS

Disposition/Stage:

Action Date	Stage	Comments
09-AUG-2016	TRIAGE	
09-AUG-2016	FILING	
09-AUG-2016	FILED	
06-JUN-2017	DISAPPROVED	Board of Appeal Case #17-088
20-JUL-2017	APPEAL	BOA & Planning request case being appealed and continued until decision by BOA

Contact Details:

Contractor Details

Addenda Details:

Description:

Step #	Station	Arrive Date	Start Date	In Hold	Out Hold	Finish Date	Plan Checked by	Hold Description
1	HIS	09-AUG-2016	09-AUG-2016			09-AUG-2016	KARCS ANDREW	
2	BID-INSP	09-AUG-2016	09-AUG-2016			09-AUG-2016		APPROVED BY MAURICIO HERNANDEZ
3	INTAKE	09-AUG-2016	09-AUG-2016			09-AUG-2016	CHUNG JANCE	
4	CPB	21-SEP-2016	21-SEP-2016			21-SEP-2016	SECONDEZ GRACE	
5	CP-ZOC	21-SEP-2016	27-OCT-2016	27-OCT-2016	05-MAY-2017	05-MAY-2017	TUFFY EILIESH	Permit application disapproved; Application to legalize a garage within an existing building does not meet Planning Code Sec. 249.49, which created a Special Use District in 2010 to prevent new garages in this area.
6	PPC	08-MAY-2017	13-JUL-2017			13-JUL-2017	LEI MANDY	7/13/17: to CPB/Anne Yu for cancellation; mml 5/10/17: cancellation letter sent. mml 5/8/17: to Mandy Lei for cancellation;Ec.
7	CPB	13-JUL-2017	13-JUL-2017				CHAN AMARIS	07/19/17: PER DAN LOWREY, BOA AND PLANNING REQUEST CASE BEING APPEALED AND CONTINUED UNTIL DECISION



DEPARTMENT OF BUILDING INSPECTION

City and County of San Francisco
1660 Mission Street, San Francisco, California 94103-2414

Date: 08/29/17 16:23:55

Permit details report

201608094528

Step #	Station	Arrive Date	Start Date	In Hold	Out Hold	Finish Date	Plan Checked by	Hold Description
								BY BOA. SEE ATTACHED LETTER. AMARIS. 07/13/17: Disapproved Per Planning Department.AY

ADDENDA OVERVIEW

0104/025 / 0 20 NOBLESA

ALTERATIONS PERMIT

PERMIT TRACKING SYSTEM
Overview
Attributes
Revisions
Routing
Inspection
Disposition

201608094528 Form 3 Proj Stage APPEAL GARAGE DOOR CORRECTION PER Desc

1st Construction Document?

Addendum 0 of 0 Title New Valuation

Plans Revision No. 2 Received: 02/06/2017

Number of Plan Sets: 2

Completed: 0 of 0 Special Inspections

Current Disposition:

ADDENDA REVISIONS

0104/025/0-20 NOBLETS AI

ALTERATIONS PERMIT

Overview

201608094528

Form Proj

Stage

APPEAL

GARAGE DOOR CORRECTION PER

Desc

1st Construction Document?

Addendum 0 of 0

Title

New

Valuation

Revisions

Revision	Description	# Plan Sets	Received By	Date / Time
1	Plans to Eiliesh	2	THICKEY	01/13/2017
2	Plans to DCP/ Eiliesh Tuffy	2	ECHAN	02/06/2017

PERMIT TRACKING SYSTEM

Attributes

Revisions

Routing

Inspections

Disposition

Exhibit 4

Permit Details Report

Report Date: 9/7/2017 1:45:43 PM

Application Number: 201608094528
 Form Number: 3
 Address(es): 0104 / 025 / 0 20 NOBLESAL
 Description: GARAGE DOOR CORRECTION PER NOV 201620916- SEAL UNPERMITTED GARAGE DOOR, RELOCATE LEGAL GARAGE DOOR TO CENTER OF GROUND FLOOR.
 Cost: \$5,000.00
 Occupancy Code: R-2
 Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
8/9/2016	TRIAGE	
8/9/2016	FILING	
8/9/2016	FILED	
6/6/2017	DISAPPROVED	Board of Appeal Case #17-088
7/20/2017	APPEAL	BOA & Planning request case being appealed and continued until decision by BOA

Contact Details:

Contractor Details:

Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Phone	Hold Description
1	HIS	8/9/16	8/9/16			8/9/16	KARCS ANDREW	415-558-6220	
2	BID-INSP	8/9/16	8/9/16			8/9/16		415-558-6096	APPROVED BY MAURICIO HERNAND
3	INTAKE	8/9/16	8/9/16			8/9/16	CHUNG JANCE	415-999-9999	
4	CPB	9/21/16	9/21/16			9/21/16	SECONDEZ GRACE	415-558-6070	
5	CP-ZOC	9/21/16	10/27/16	10/27/16	5/5/17	5/5/17	TUFFY EILIESH	415-558-6377	Permit application disapproved; Application to legalize a garage within an existing building does not meet Planning Code Section 249.49, which created a Special Use District in 2010 to prevent new garages in this area.
6	PPC	5/8/17	7/13/17			7/13/17	LEI MANDY	415-558-6133	7/13/17: to CPB/Anne Yu for cancellation; mml 5/10/17; cancellation letter sent. m 5/8/17: to Mandy Lei for cancellation; Ec
7	CPB	7/13/17	7/13/17				CHAN AMARIS	415-558-6070	07/19/17: PER DAN LOWREY, BOA AN PLANNING REQUEST CASE BEING APPEALED AND CONTINUED UNTIL DECISION BY BOA. SEE ATTACHED LETTER. AMARIS. 07/13/17: Disapproval Per Planning Department.AY

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
------------------	-------------------	------------------	------------------	-------------	------------

Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
---------------	-----------	------------------------	-------------------

Special Inspections:

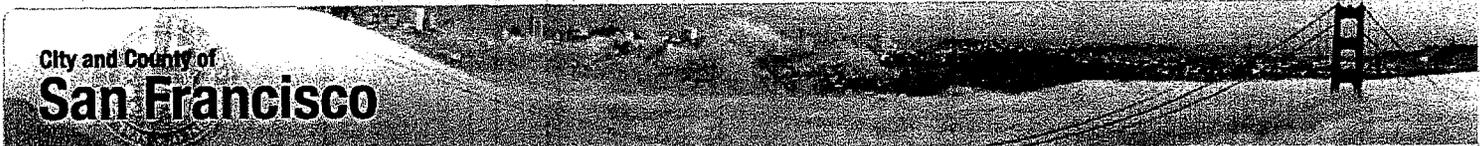
Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
-------------	----------------	--------------	-----------------	-------------	---------

[Online Permit and Complaint Tracking](#) home page.

Technical Support for Online Services

If you need help or have a question about this service, please visit our [FAQ](#) area.

Exhibit 5



Home » Most Requested

Welcome to our Permit / Complaint Tracking System!
Permit Details Report



Report Date: 12/13/2017 10:10:53 PM

Application Number: 201608094528

Form Number: 3

Address(es): 0104 /025 /0 20 NOBLES AL

Description: GARAGE DOOR CORRECTION PER NOV 201620916- SEAL UNPERMITTED GARAGE DOOR, RELOCATE LEGAL GARAGE DOOR TO CENTER OF GROUND FLOOR.

Cost: \$5,000.00

Occupancy Code: R-2

Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
8/9/2016	TRIAGE	
8/9/2016	FILING	
8/9/2016	FILED	
6/6/2017	DISAPPROVED	Board of Appeal Case #17-088
7/20/2017	APPEAL	BOA & Planning request case being appealed and continued until decision by BOA

Contact Details:

Contractor Details:

Addenda Details:

Description:

Exhibit 6

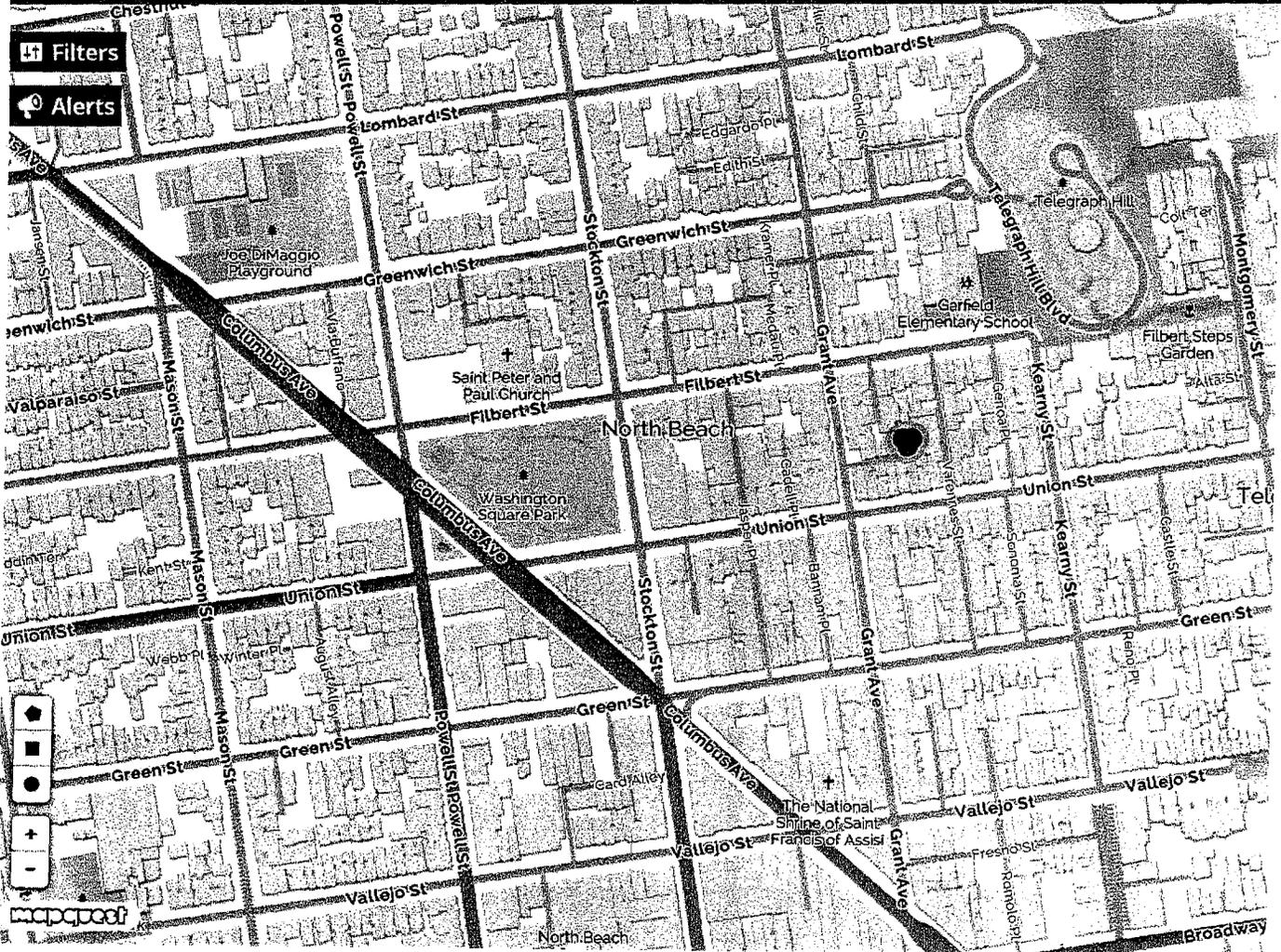


20 Nobles Alley

Menu

Login

Sign Up



20 NOBLES AL, SAN FRANCISCO, CA

Permit Number:
201608094528

Received Date:
Aug 09, 2016

Permit Type:
BUILDING - ADDITIONS, ALTERATIONS OR REPAIRS

Description:
GARAGE DOOR CORRECTION PER NOV 201620916- SEAL UNPERMITTED GARAGE DOOR, RELOCATE LEGAL GARAGE DOOR TO CENTER OF GROUND FLOOR.

Status:
APPEAL

[More details](#)

Exhibit 7



SAN FRANCISCO PLANNING DEPARTMENT

Notice of Planning Department Disapproval

May 8, 2017

Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

RE: 20 Nobles Alley (Address of Permit Work)
0104/025 (Assessor's Block/Lot)
2016.08.09.4528 (Building Permit Application Number)
Telegraph Hill-North Beach Residential SUD (Special Use District)

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Building Permit Application #2016.08.09.4528 has been received by the Planning Department and assigned to planner Eiliesh Tuffy. Eiliesh has completed review of the application for corrective work to address Notice of Violation #201620916. The scope of work for the project as stated on the application is: "garage door correction per NOV 201620916- seal unpermitted garage door, relocate legal garage door to center of ground floor."

Please be advised that the Planning Department has disapproved Building Permit Application No. 2016.08.09.4528. This notice is to alert the project sponsor of the process of review for the submitted application and to convey the Department's findings that, due to restrictions enacted with the adoption of the Telegraph Hill-North Beach Residential Special Use District in 2010, the Planning Department cannot approve the proposed relocation of the existing garage door at the front façade of the existing residential structure.

CEQA – Historical Review

The North Beach neighborhood was surveyed in 1982 to identify cultural resources of significance in the area. The findings of the North Beach survey, which was adopted by the Board of Supervisors in 1999, included areas within the neighborhood that qualified for designation in the California Register of Historical Resources. The subject property at 20 Nobles Alley is located within the boundaries of the Upper Grant Avenue Historic District, but was not found to be a contributing building to the district at the time of the survey due to its extensive alterations. Visible alterations to "Non-Contributing" buildings are typically reviewed for their general compatibility with the surrounding district.

The Historical Review of the design proposal determined that the existing two-garage door design could not be supported because it would not conform to Sec. 144 of the Planning Code, which limits garage openings to no more than one-third of the width of the ground story along the front lot line. However, because some historic buildings in the historic district have single garage door entrances of a modest scale, the removal of the second unpermitted garage door and restoration of a prior man-door and window opening was reviewed as a means of returning the ground floor design to a more historic appearance. This determination was predicated on the sponsor's ability to provide evidence of the single garage door's legal installation.

Sent to:
Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

May 8, 2017
2016.08.09.4528
20 Nobles Alley

Building Permit Review

Building permits and plans were reviewed to determine a record of work at the property. Plans associated with permit applications (nos. 9723784 and 9723786) filed in 1997 to remove kitchens, remove interior, non-load bearing wall and combine units 20 and 20A into one unit," show a single garage opening. However, the creation of a ground floor garage was not part of the approved project scope for that permit or any other permit on file with the Department of Building Inspection. Similarly, there are no permits on file that approved the creation of a second garage door opening at the subject property. Lacking any evidence of the legal construction of the ground floor garage doors, the proposal to "seal unpermitted garage door, relocate legal garage door to center of ground floor" was reviewed as a "new" garage installation in an existing residential structure.

Planning Code Review

The Planning Code Review determined that legalization of either a 2-door garage or a 1-door garage at the subject property would not meet the requirements of Section 144 and Section 249.49 of the Planning Code, with the latter code section preventing the installation of new garages in existing residential structures.

SEC. 144 - STREET FRONTAGES IN RH, RTO, RTO-M, AND RM DISTRICTS.

Section 144(b)(1) Entrances to Off-Street Parking

Except as otherwise provided herein, in the case of every dwelling in such districts no more than one-third of the width of the ground story along the front lot line, or along a street side lot line, or along a building wall that is set back from any such lot line, shall be devoted to entrances to off-street parking, except that in no event shall a lot be limited by this requirement to a single such entrance of less than ten feet in width, or to a single such entrance of less than 8 feet in RTO and RTO-M districts. In addition, no entrance to off-street parking on any lot shall be wider than 20 feet, and where two or more separate entrances are provided there shall be a minimum separation between such entrances of six feet. Lots in RTO and RTO-M districts are limited to a total of 20 feet per block frontage devoted to entrances to off-street parking. Street-facing garage structures and garage doors may not extend closer to the street than a primary building facade unless the garage structure and garage door are consistent with the features listed in Section 136 of this Code. Entrances to off-street parking shall be located at least six feet from a lot corner located at the intersection of two public rights-of-way.

SEC. 249.49. TELEGRAPH HILL – NORTH BEACH RESIDENTIAL SPECIAL USE DISTRICT.

Section 249.49(a) Purposes.

To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert existing residential buildings from rental buildings to tenancies-in-common.

Section 249.49(c)(2)(4) Installation of a Parking Garage

In approving installation of the garage, the Commission must find that(4) the garage would not front on a public right-of-way narrower than 41 feet.

Sent to:
Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

May 8, 2017
2016.08.09.4528
20 Nobles Alley

The project proposes to install a new garage door at the front façade of an existing residential building located on an alley narrower than 41 feet in the Telegraph Hill-North Beach Residential Special Use District. Therefore, the Planning Department cannot approve permit application #2016.08.09.4528 to seal unpermitted garage door, relocate legal garage door to center of ground floor. Permit application #2016.08.09.4528 will be returned to the Department of Building Inspection for cancellation.

Please note that, due to the Notice of Violation on the property, the Enforcement case for this property will remain active until the project sponsor submits an application to abate the violation. Please contact the assigned Enforcement staff planner, Chaska Berger, by phone at 415-575-9188 or by email at chaska.berger@sfgov.org regarding timeframes for submitting materials to address the Notice of Violation.

Planning Department & Planning Commission Denials.

Project sponsors seeking to appeal the denial of a permit application by the Planning Department or Commission may not file an appeal until the Department of Building Inspection (DBI) issues the Notice of Disapproval for the project. The appeal must be filed within 15 calendar days from the date of DBI's Notice of Disapproval. A copy of the following documents must be submitted to Board staff: (a) the building permit application that was denied, with notation by Planning Staff on the back; and (b) the Notice of Disapproval that was issued by DBI.

For further information regarding how to appeal the disapproval of this building permit application, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

Eiliesh Tuffy
Current Planning Division

Cc: Scott Sanchez, Zoning Administrator
Chaska Berger, Zoning and Compliance
Tom C. Hui, Director of DBI

Exhibit 8



SPECIAL INSTRUCTIONS FOR PARTIES

APPROVED PLANS

Permit holders whose building permits have been appealed are strongly encouraged to submit reduced copies of the City-approved plans for the subject project no later than one Thursday prior to the scheduled hearing. If plans are not submitted and the Board needs the plans to make its decision, the resolution of the appeal may be delayed. Eleven sets should be submitted to the Board office, reduced to a legible size (such as 11" x 17") and one additional set should be delivered to the other parties on the same date. An electronic copy should be sent to: boardofappeals@sfgov.org.

WRITTEN & ORAL ARGUMENTS

Parties are encouraged, but not required, to submit a written statement (called a "brief") to the Board describing the dispute at issue, outlining their arguments and what action they'd like the Board to take. At the hearing, parties are given time to present their arguments orally to the Board.

Please consider the following information and instructions for written and oral arguments, and written submittals:

Keep in mind the correct standard of review the Board will use in deciding the case.

- For most appeals, the Board applies *de novo* review, which means it hears the case fresh and does not need to defer to the findings of fact or determinations made by the underlying decision-maker.
- Decisions by the Zoning Administrator (ZA), other than Variance decisions, require that the Board defer to the ZA unless the Board finds that the ZA erred or abused his or her discretion. Variance decisions are decided under the *de novo* standard described above.
- In deciding a case, the Board may only uphold, overturn or place conditions on a departmental decision; it cannot remand (send back) a decision to the underlying department for further review or action.
- Jurisdiction Requests: To grant late jurisdiction, the Board must find that the City intentionally or inadvertently caused the requestor to be late in filing the appeal. If a Jurisdiction Request is granted, the requestor will have five days from the date of the Board's decision to file an appeal.
- Rehearing Requests: The Board may grant a rehearing in extraordinary cases to prevent manifest injustice, or where new or different facts or circumstances have arisen that if known at the time of the original hearing could have affected the outcome of the hearing. The written request should state the nature and character of the new facts or circumstances, the names of the witnesses and/or a description of the documents to be produced, and why the evidence was not produced at the original hearing.

Consider the votes needed.

- Appeals: In most cases, an appellant must get four out of the five Board members to vote to overturn or modify a departmental decision. That means it takes the vote of two Board members for the underlying departmental decision to remain unchanged.
- Jurisdiction Requests and Rehearing Requests: Four out of five votes are needed to grant a Jurisdiction Request or Rehearing Request.

Explain what action you'd like the Board to take. The type of action requested will depend upon the nature of the appeal and the party submitting the brief. Some examples include:

- Protest Appeals – when someone objects to a permit or other entitlement issued to someone else:
 - An appellant in a protest appeal typically requests either that the entitlement be denied, or new conditions be placed on the entitlement so that the project is changed in some way (example: new construction be set back further from the appellant's property line).
 - A permit holder in this type of case typically requests that the Board uphold the entitlement as is, with no new conditions.
- Appeals of a Denial, Revocation, Condition, Suspension or Penalty:
 - An appellant who appeals the denial or revocation of his or her own permit typically asks the Board to overturn the denial or revocation.
 - An appeal of conditions placed on a permit seeks to eliminate or modify the conditions.
 - An appeal of a permit suspension or penalty seeks to eliminate or reduce the length of the suspension or the amount of the penalty. Note that in many cases, there is a statutory limit that prevents the Board from completely eliminating a penalty.

Follow the Board's formatting requirements for written submittals. The Rules of the Board of Appeals set out very specific requirements with respect to the length of briefs for different types of cases and how they need to look on the page. Briefs that don't meet these requirements may be rejected.

- All briefs, whether handwritten or typewritten, must be double-spaced.
- Length:
 - Appeal briefs must not exceed twelve double-spaced pages in length, and may include an unlimited number of exhibits.
 - Briefs associated with Jurisdiction Requests and Rehearing Requests must not exceed six double-spaced pages in length, and may include an unlimited number of exhibits.
 - At the time an appeal is filed, an appellant may submit a supplementary statement that must not exceed one double-spaced page in length. No exhibits are allowed at that time.
- Exhibits may include photographs, maps, plans, drawings, letters of support or opposition, or any other information or material relevant to the appeal.
- Exhibits may not include additional pages of argument.
- The Board will be provided a copy of the determination being appealed and the Preliminary Statement of Appeal; these documents do not need to be included as exhibits.

- Typewritten briefs must be in a font size no smaller than 12 point.
- Double-sided printing is encouraged, especially for long documents. Do not bind double-sided documents at the top of the page.
- Late or overlong submittals will be rejected. Please contact the Board at least 24 hours in advance of your deadline if you wish to request permission to file a late or longer brief.
- Where exhibits exceed ten pages in length, the Board encourages the submitting party to separate exhibits with tabs and provide a table of contents.
- Do not submit briefs in folders or three-ring binders; stapled or clipped documents are preferred.

Meet all deadlines and delivery requirements. When an appeal is filed, Board staff will set a briefing schedule, and notify the parties both verbally and in writing, as to when their brief is due.

- Appeals

- Appellant's Brief is due no later than three Thursdays prior to the hearing.
- Respondent's and Other Parties' Briefs are due no later than one Thursday prior to the hearing.
- Eleven copies of the brief with exhibits must be delivered to the Board office by 4:30 p.m. on or before the date it is due.
- Additional copies must be delivered to the other parties on the same day.
- An electronic copy of all submittals should be sent to: boardofappeals@sfgov.org.
- If the hearing date is changed, the briefing schedule may also change. Notice will be sent out by Board staff with any revised briefing schedule.

- Jurisdiction Requests and Rehearing Requests

- Requestor's Brief is due at the time the request is filed. Eleven copies of the brief with exhibits must be submitted at that time. The Board will distribute copies to the other parties.
- Respondent's Brief is due ten days after the request is filed. Eleven copies of the brief with exhibits must be delivered to the Board office by 4:30 p.m. on or before the date it is due. Additional copies must be delivered to the other parties on the same day. If a deadline falls on a weekend or City holiday, it will move to the next business day unless otherwise specified by Board staff.

HEARINGS

- All parties or their representatives must be present on the scheduled date of the hearing.
- Parties to an appeal shall have seven minutes for presentation and three minutes for rebuttal. Parties to a Jurisdiction Request or Rehearing Request shall have three minutes for presentation and no rebuttal.
- Appellants or Requestors speak first, then the determination (permit) holder, then the respondent City Department and then public comment. On appeals, the Board will then hear rebuttal testimony from the parties in the same order.
- Members of the public who are not affiliated with a party may speak once for up to three minutes.

- If you are not familiar with the Board's public hearing procedures, it is recommended that you watch a Board meeting before your scheduled hearing date to prepare for your presentation. You may attend a meeting in person, watch meetings on SFGovTV (San Francisco cable Channels 26 and 78), or on-demand on the internet at: www.sfgovtv.org.
- Additional written arguments may not be submitted at the hearing without Board approval; only photographs, maps, plans and drawings may be submitted at that time.
- Computer-assisted presentations are permitted at the hearing to the extent the requisite technology is available in the hearing room. Parties should have an alternate means of presentation prepared in case the equipment is not working.

RESCHEDULING OF APPEALS

If an appeal is rescheduled prior to hearing, written notification will be mailed to all parties involved. However, if the Board reschedules an appeal at a public hearing, no written notification will be mailed out.

REHEARING REQUESTS

- If the Board does not rule in your favor, you may request a rehearing.
- A Rehearing Request must be filed within ten calendar days from the date of the Board's decision, and may be filed only by the parties to an appeal.
- Only one Rehearing Request may be filed per appeal.
- If the Rehearing Request period ends on a weekend or City holiday, the last day to file the request is the next business day.
- The Rules of the Board (Article V.9) specify that the Board may grant a rehearing request only in extraordinary cases to prevent manifest injustice, or where new or different facts or circumstances have arisen that if known at the time of the original hearing could have affected the outcome of the hearing.

CONTACT WITH BOARD MEMBERS

The Board of Appeals functions as a quasi-judicial body. In an effort to further the Board's mission to create a forum where appeals are heard and decided in a manner that is fair for all involved, all evidence to be considered on each appeal should be provided as part of the public record through the briefs and other documents submitted to the Board as described above, and through oral testimony at public hearings. Board members should not be contacted by parties to appeals, their representatives, or members of the public, on matters that are pending before the Board.

MORE INFORMATION

More information about the Board of Appeals, including copies of the Rules of the Board, related Charter and Code provisions, and other resource materials are available at the Board office and on the internet at www.sfgov.org/boa.

The parties are encouraged to read the Rules of the Board of Appeals for additional information.

Exhibit 9

San Francisco Business & Tax Regulations Code

ARTICLE 1

SEC. 8. METHOD OF APPEAL TO THE BOARD OF APPEALS

SEC. 10. RECORD FORWARDED TO BOARD OF APPEALS.

Upon receipt of notice of appeal it shall be the duty of the department, board, commission or person from whose decision the appeal is taken to transmit to the Board of Appeals the original application or complaint upon which the license or permit was granted, refused or revoked, and all affidavits, exhibits, letters, maps or other documents used upon the hearing before such department, board, commission or person. The application or complaint and all documents, exhibits and records forwarded therewith shall be returned to the department, board, commission or person from whose order or decision the appeal was taken, immediately after final decision by the Board of Appeals, with a statement of the decision of said Board, certified by the President or Vice-President and Secretary thereof.

Exhibit 10



SAN FRANCISCO PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
20 Nobles Alley		0104/025	
Case No.	Permit No.	Plans Dated	
2016-014104ENV		Rec'd 9/1/2017	
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval.			
Remove unpermitted, second garage door and restore facade with original pedestrian door and adjacent window. Remove window to the right of the (E) ground floor entry door.			

STEP 1: EXEMPTION CLASS TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.	
<input checked="" type="checkbox"/>	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) dwelling units in one building; commercial/office structures; utility extensions; ; change of use under 10,000 sq. ft. if principally permitted or with a CU. Change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	Class _____

STEP 2: CEQA IMPACTS TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an <i>Environmental Evaluation Application</i> is required.	
<input type="checkbox"/>	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks)? <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Article 38 program and the project would not have the potential to emit substantial pollutant concentrations. (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollutant Exposure Zone)</i>
<input type="checkbox"/>	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? If yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i> Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).</i>
<input type="checkbox"/>	Transportation: Does the project create six (6) or more net new parking spaces or residential units? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
<input type="checkbox"/>	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area</i>)
<input type="checkbox"/>	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Topography</i>)
<input type="checkbox"/>	Slope = or > 20%: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Topography</i>) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones</i>) If box is checked, a geotechnical report is required.
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 1,000 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones</i>) If box is checked, a geotechnical report will likely be required.
<u>If no boxes are checked above, GO TO STEP 3. If one or more boxes are checked above, an <i>Environmental Evaluation Application</i> is required, unless reviewed by an Environmental Planner.</u>	
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional):	

**STEP 3: PROPERTY STATUS – HISTORIC RESOURCE
TO BE COMPLETED BY PROJECT PLANNER**

PROPERTY IS ONE OF THE FOLLOWING: (<i>refer to Parcel Information Map</i>)	
<input checked="" type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.

**STEP 4: PROPOSED WORK CHECKLIST
TO BE COMPLETED BY PROJECT PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input checked="" type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

**STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER**

Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input checked="" type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s), including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .
<input type="checkbox"/>	8. Other work consistent with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):

<input type="checkbox"/>	<p>9. Other work that would not materially impair a historic district (specify or add comments):</p> <p style="text-align: center;">—</p> <p><i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i></p>
<input type="checkbox"/>	<p>10. Reclassification of property status. <i>(Requires approval by Senior Preservation Planner/Preservation Coordinator)</i></p> <p style="padding-left: 40px;"><input type="checkbox"/> Reclassify to Category A <input type="checkbox"/> Reclassify to Category C</p> <p>a. Per HRER dated: _____ <i>(attach HRER)</i></p> <p>b. Other <i>(specify)</i>:</p>
<p>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.</p>	
<input type="checkbox"/>	<p>Further environmental review required. Based on the information provided, the project requires an <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.</p>
<input checked="" type="checkbox"/>	<p>Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.</p>
<p>Comments (optional):</p> <p>Staff analysis of project proposal summarized in Preservation Team Review Form, dated 9/8/2017.</p>	
<p>Preservation Planner Signature: Eiliesh Tuffy</p> <p style="text-align: right; font-size: small;">Digitally signed by Eiliesh Tuffy DN: cn=Eiliesh Tuffy, o=City Planning, ou=City Planning, ou=City Planning, ou=Eiliesh Tuffy, email=Eiliesh.Tuffy@sfplanning.org Date: 2017.09.08 15:22:17 -0700</p>	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<input type="checkbox"/>	<p>Further environmental review required. Proposed project does not meet scopes of work in either <i>(check all that apply)</i>:</p> <p style="padding-left: 40px;"><input type="checkbox"/> Step 2 – CEQA Impacts</p> <p style="padding-left: 40px;"><input type="checkbox"/> Step 5 – Advanced Historical Review</p> <p>STOP! Must file an <i>Environmental Evaluation Application</i>.</p>	
<input checked="" type="checkbox"/>	<p>No further environmental review is required. The project is categorically exempt under CEQA.</p>	
	<p>Planner Name: E. Tuffy</p>	<p>Signature:</p>
	<p>Project Approval Action:</p>	<div style="border: 2px solid black; padding: 5px; background-color: #e0e0e0;"> <p>APPROVED By Eiliesh Tuffy at 3:22 pm, Sep 08, 2017</p> </div>
	<p>Other (please specify) CEQA - Historical rev</p> <p>If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</p>	
<p>Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31 of the Administrative Code.</p> <p>In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the first approval action.</p>		

**STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT
TO BE COMPLETED BY PROJECT PLANNER**

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address (If different than front page)		Block/Lot(s) (If different than front page)
Case No.	Previous Building Permit No.	New Building Permit No.
Plans Dated	Previous Approval Action	New Approval Action
Modified Project Description:		

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:	
<input type="checkbox"/>	Result in expansion of the building envelope, as defined in the Planning Code;
<input type="checkbox"/>	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;
<input type="checkbox"/>	Result in demolition as defined under Planning Code Section 317 or 19005(f)?
<input type="checkbox"/>	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?
If at least one of the above boxes is checked, further environmental review is required. ATEX FORM	

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

<input type="checkbox"/>	The proposed modification would not result in any of the above changes.
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice.	
Planner Name:	Signature or Stamp:



SAN FRANCISCO PLANNING DEPARTMENT

PRESERVATION TEAM REVIEW FORM

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Preservation Team Meeting Date:		Date of Form Completion:	9/8/2017
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PROJECT INFORMATION:		
Planner:	Address:	
E. Tuffy	18, 18A & 20 Nobles Alley	
Block/Lot:	Cross Streets:	
0104/025	Grant Avenue	
CEQA Category:	Art. 10/11:	PPA/Case No.:
A		2016-014104ENV

PURPOSE OF REVIEW:			PROJECT DESCRIPTION:		
<input checked="" type="radio"/> CEQA	<input type="radio"/> Article 10/11	<input type="radio"/> Preliminary/PIC	<input type="radio"/> Alteration	<input type="radio"/> Demo/New Construction	

DATE OF PLANS UNDER REVIEW:	Rec'd 9/1/2017
-----------------------------	----------------

PROJECT ISSUES:	
<input type="checkbox"/>	Is the subject Property an eligible historic resource?
<input type="checkbox"/>	If so, are the proposed changes a significant impact?
Additional Notes:	
Project proposes to reverse ground floor exterior work completed without benefit of a permit. Work to include the removal of 1 non-historic window, 2 wall vent openings, and 1 out of 2 existing garage doors. Based on the statement of a previous owner, historic property records and photographs of the building, the ground floor alterations were made after the building was sold in June of 1997. The current owners purchased the property in 2016 and seek to legalize 1 existing garage door.	

PRESERVATION TEAM REVIEW:			
Category:	<input checked="" type="radio"/> A	<input type="radio"/> B	<input type="radio"/> C
Individual		Historic District/Context	
Property is individually eligible for inclusion in a California Register under one or more of the following Criteria:		Property is in an eligible California Register Historic District/Context under one or more of the following Criteria:	
Criterion 1 - Event:	<input type="radio"/> Yes <input type="radio"/> No	Criterion 1 - Event:	<input checked="" type="radio"/> Yes <input type="radio"/> No
Criterion 2 - Persons:	<input type="radio"/> Yes <input type="radio"/> No	Criterion 2 - Persons:	<input type="radio"/> Yes <input type="radio"/> No
Criterion 3 - Architecture:	<input type="radio"/> Yes <input type="radio"/> No	Criterion 3 - Architecture:	<input checked="" type="radio"/> Yes <input type="radio"/> No
Criterion 4 - Info. Potential:	<input type="radio"/> Yes <input type="radio"/> No	Criterion 4 - Info. Potential:	<input type="radio"/> Yes <input type="radio"/> No
Period of Significance:		Period of Significance:	1880s-1929
		<input type="radio"/> Contributor <input checked="" type="radio"/> Non-Contributor	

Complies with the Secretary's Standards/Art 10/Art 11	<input checked="" type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> N/A
CEQA Material Impairment to the individual historic resource	<input type="radio"/> Yes	<input type="radio"/> No	
CEQA Material Impairment to the historic district	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Requires Design Revisions	<input type="radio"/> Yes	<input checked="" type="radio"/> No	
Defer to Residential Design Team	<input type="radio"/> Yes	<input checked="" type="radio"/> No	

PRESERVATION TEAM COMMENTS:

The subject property under review at 20 Nobles Alley is a 2-story-over-basement, flat-front wood-frame vernacular building containing three dwelling units. Based on plans dated The south elevation has 26'-9" of building frontage along the north side of Nobles Alley. Sanborn maps of the area indicate that prior to the 1906 earthquake and fire, the subject lot had a 1-story dwelling facing Nobles Alley with a 1-story bakery immediately behind the residential dwelling. In 1905 the property held the address of 9 Noble Alley. By 1915, following the area's post-earthquake period of reconstruction, the existing building had been constructed on the subject lot, was identified as 20 Noble Alley, and housed 2 apartment flats in the front structure and 2 flats at the rear. The width of the street on the 1915 Sanborn map is shown to be 16 feet.

In 1982, an architectural survey was conducted of the North Beach neighborhood which included Nobles Alley and the subject property. As a result of that survey, the Upper Grant Historic District was identified as a National Register-eligible district under CEQA. The district runs along the Grant Avenue commercial corridor and includes residential parcels to the east and west, from Medau Place at the northern boundary to Fresno Street and Columbus Avenue at the southern boundary. The district was identified as significant for its land use pattern of densely-built streets that are indicative of the city's early urban development, for the close proximity of commercial and residential development, for its vernacular building types constructed immediately following the 1906 earthquake, and for its association with the following themes: Economic/Industrial and Social/Education primarily related to the history of various ethnic communities in the area. In total, nine properties line the north and south sides of Nobles Alley. At the end of the alley, partial rear elevations of two additional properties are also visible. The survey noted 6 properties with frontage on Nobles Alley as contributors to the historic district: #2, #15 and #21-25 Nobles Alley, #1508-1512 and #1522-1526 Grant Ave., and #478-482 Union St. While the subject property is a vernacular residential building constructed immediately following the earthquake, it was not identified at the time of the 1982 survey as a contributor to the historic district.

Currently, the ground floor includes 1 man-door, 1 window & 2 garage doors. The project proposes to remove 1 non-historic window, 2 wall vent openings & 1 garage door. (cont'd)

Signature of a Senior Preservation Planner / Preservation Coordinator	Date
<i>Smade</i>	9-8-2017

The project would restore the ground floor façade in the proposed areas of work to a prior condition, based on historic photographic documentation that is included on Sheet A5.1 of the plan set.

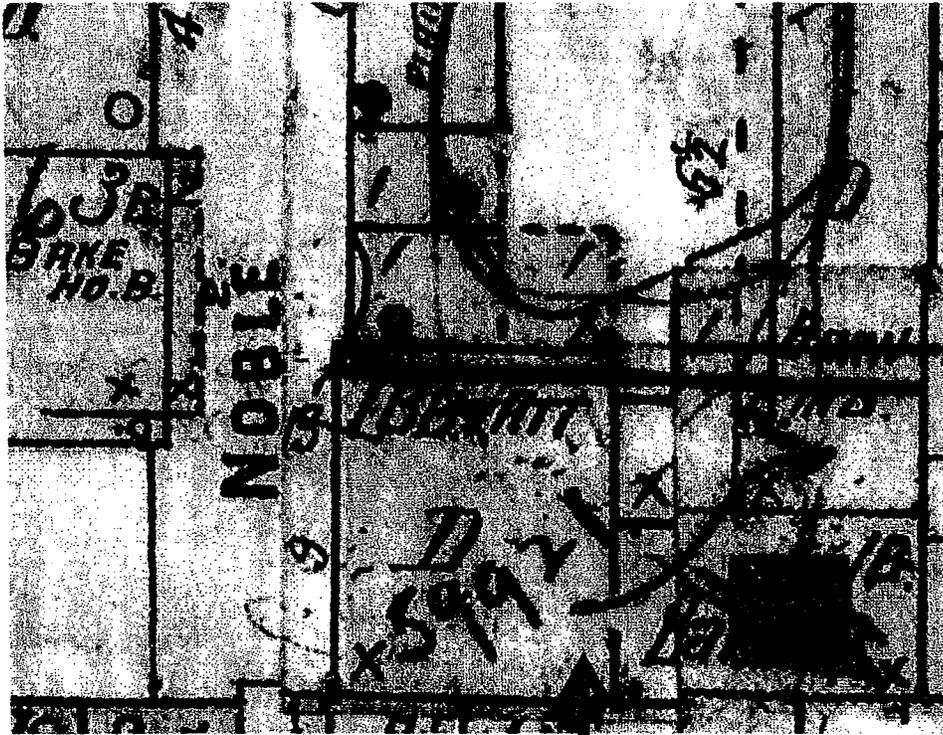
As proposed, the scope of work is in accordance with Standard #6 of the National Park Service's *Secretary of the Interior's Standards for Rehabilitation*, which states:

Standard 6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

The ground floor wall areas proposed for rehabilitation, which includes the removal of two non-historic wall vent openings, would be clad in stucco to match the existing façade cladding in material and finish. The proposed wood man-door and wood double-hung window are compatible with the door and window that previously existed at that ground floor location, based on historic photos.

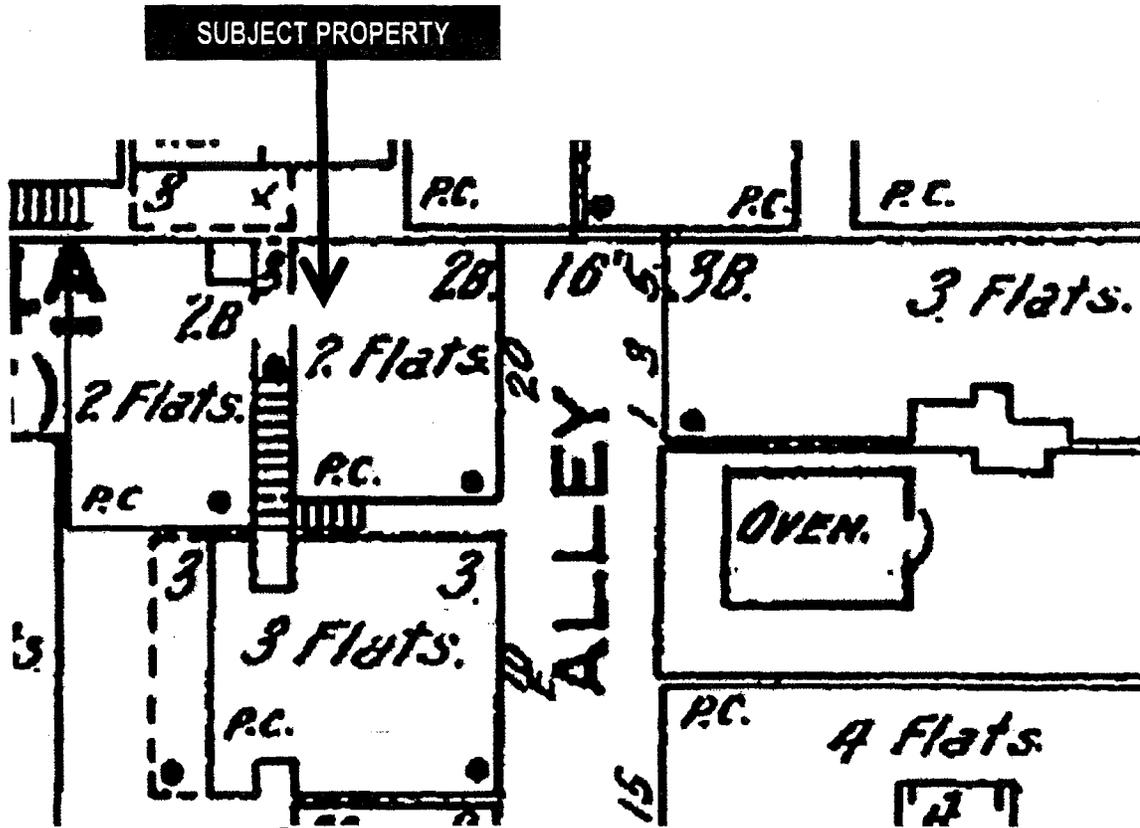
Based on the details provided in the plan set, the project returns the subject property to a documented prior condition using exterior cladding and fenestration that is compatible with the district's period of significance. Therefore, pursuant to the California Environmental Quality Act, the project would not cause a substantial material impact to the Upper Grant Historic District.

20 Nobles Alley (previously #9 Noble)
Sanborn Map -- 1905

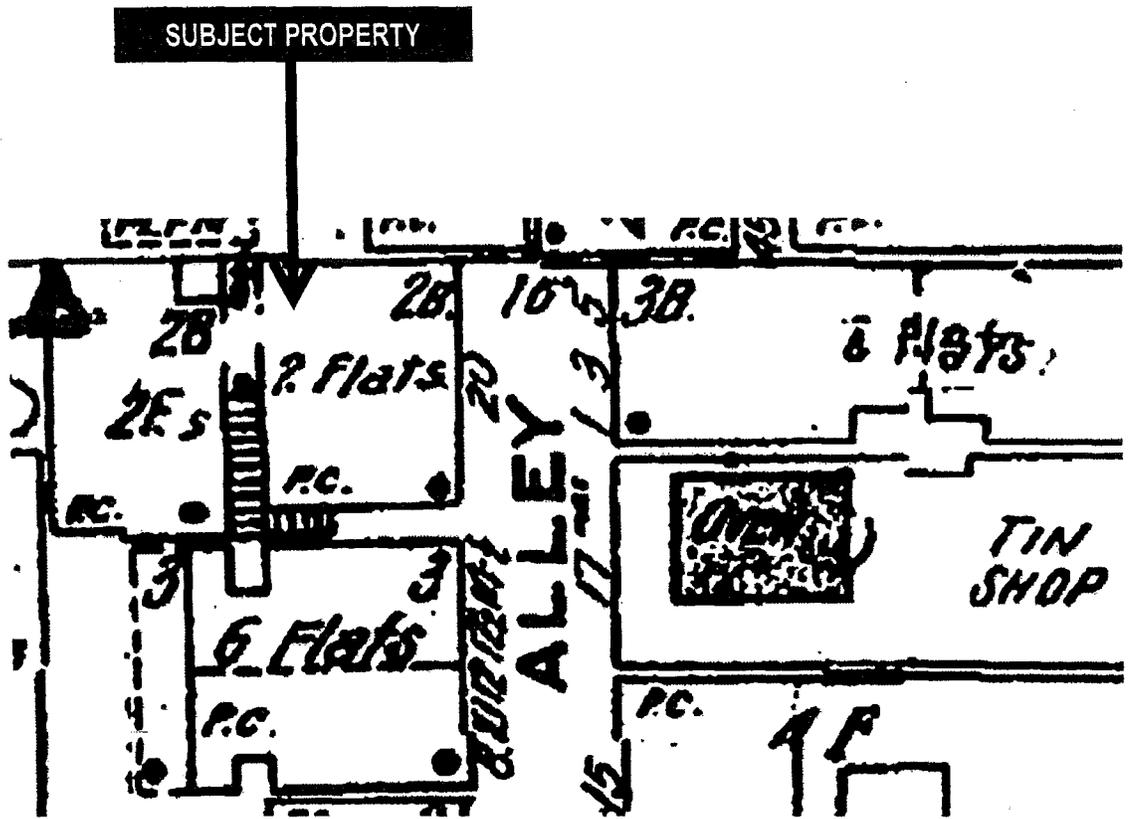


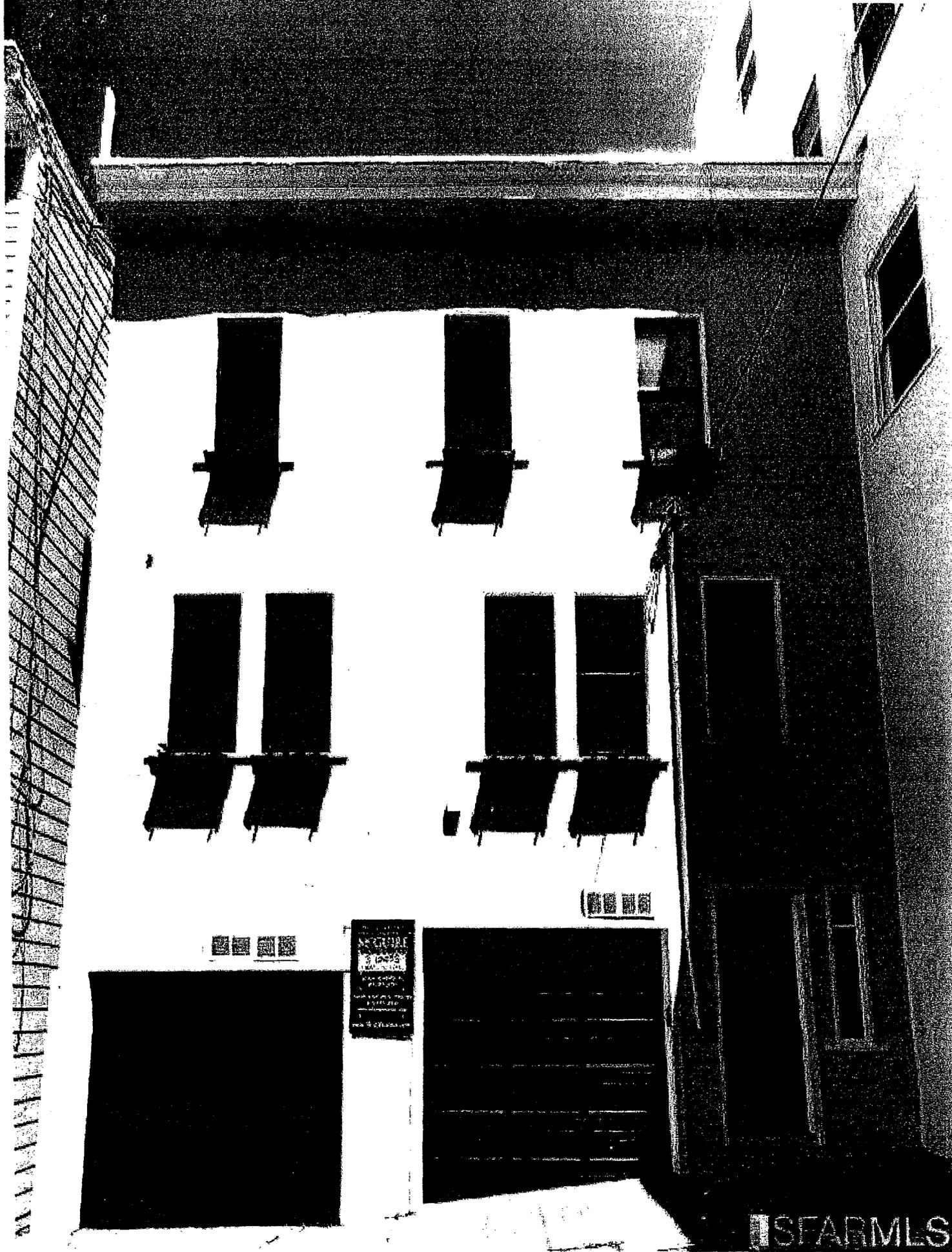
SUBJECT PROPERTY

20 Nobles Alley
Sanborn Map -- 1915



20 Nobles Alley
Sanborn Map -- 1950





SFARMLS

HISTORIC RESOURCES INVENTORY

Ser. No. _____
HABS _____ HAER _____ NR 3D SHL _____ Loc _____
UTM: A 552125/4183820 B 552150/4183620
10 C 551950/4183595 D 551890/4183740

IDENTIFICATION

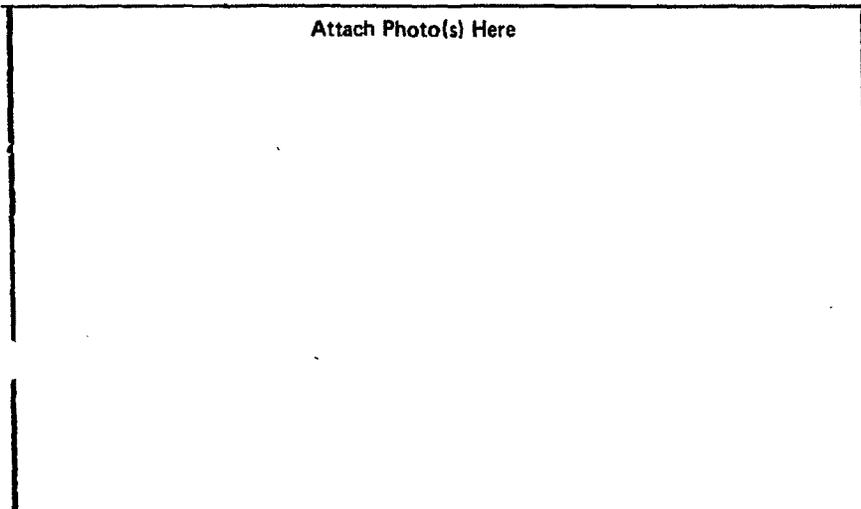
1. Common name: Upper Grant Avenue
2. Historic name: Dupont Street (section north of Broadway)
3. Street or rural address: multiple, see continuation sheets
City San Francisco Zip 94133 County San Francisco
4. Parcel number: multiple, see continuation sheets
5. Present Owner: multiple, see continuation sheets Address: _____
City _____ Zip _____ Ownership is: Public _____ Private X
6. Present Use: residential & shops Original use: residential & shops

DESCRIPTION

- 7a. Architectural style: vernacular Classic
- 7b. Briefly describe the present *physical description* of the site or structure and describe any major alterations from its original condition:

The upper Grant Avenue District consists of a neighborhood shopping street and its surrounding streetsful of apartments and flats, all less than one block distant from the narrow shopping street, Grant Avenue. The neighborhood is densely packed, both in plan: by two or three very narrow alleys added to each block of the city's rectangular grid; and in architecture: by sidewalk-hugging, multiple-unit adjoining buildings and nary an open space except the streets themselves. Most buildings are 3-story-&-basement vernacular Classic frames; those on the main streets have bay windows, those on alleys do not. On Grant Avenue and a little way on some cross streets, ground floors were built to house stores with plate-glass windows, transom strips of windows, bases and posts, and a V-shaped recessed entry which increases show window spaces and invites customers inside. Since the ground varies from nearly level, especially on Grant Avenue, to quite steep, the non-store buildings stand on raised basements usually faced with concrete imitating rusticated stone. Stairs may lead to a recessed entry with doors to individual flats, or a facade

(see continuation sheet)



8. Construction date:
Estimated -1925 Factual 1906-
9. Architect multiple or
none
10. Builder multiple, none
unknown
11. Approx. property size (in feet)
Frontage _____ Depth _____
or approx. acreage 12.6
12. Date(s) of enclosed photograph(s)
1982

13. Condition: Excellent ___ Good Fair ___ Deteriorated ___ No longer in existence ___
14. Alterations: some garages, fire escapes, stuccoed facades, store fronts
15. Surroundings: (Check more than one if necessary) Open land ___ Scattered buildings ___ Densely built-up
Residential Industrial ___ Commercial Other: _____
16. Threats to site: None known ___ Private development Zoning Vandalism ___
Public Works project ___ Other: _____
17. Is the structure: On its original site? Moved? ___ Unknown? ___
18. Related features: a few street trees

SIGNIFICANCE

19. Briefly state historical and/or architectural importance (include dates, events, and persons associated with the site.)
 The upper Grant Avenue district is significant because of its historical land use pattern, recreated after the 1906 fire and essentially unchanged today from the earliest development: a tightly packed area of interdependent housing and small shops serving the community with basic services and ethnic specialties. The pattern consists of a narrow main street and even narrower alleys, all filled with side-by-side 2-8 unit, 3-story vernacular Classic buildings on small lots--smaller lots and simpler ornamentation on alleys and slightly larger lots with bays and more ornamentation on city grid streets--and of similar buildings with residential upper stories and ground-floor shops on and near Grant Avenue. It was and is a "busy" place, with emphasis on foot traffic. It reflects the crowded living conditions typically experienced by recent immigrants. The area has always had an "ethnic" quality: a mixture of Germans, Italians, Latin Americans and French in 1880, Italians after 1900, and Asian-Americans today. In the 20th century the small apartments and low rents began to attract Bohemians and literati who enjoyed the ethnic atmosphere and inexpensive ethnic restaurants, standard employment for recent immigrants. (cont.)

20. Main theme of the historic resource: (If more than one is checked, number in order of importance.)
 Architecture ___ Arts & Leisure ___
 Economic/Industrial Exploration/Settlement ___
 Government ___ Military ___
 Religion ___ Social/Education 1

21. Sources (List books, documents, surveys, personal interviews and their dates). Assessors Records, SF. San Francisco Directory, many years. Sanborn Map Co, San Francisco, v. 1, various years. see continuation sheets.

22. Date form prepared June 1982
 By (name) Anne Bloomfield
 Organization North Beach Historical Proj.
 Address: 2229 Webster St.
 City: San Francisco, CA Zip 94115
 Phone: (415) 922-1063

Locational sketch map (draw and label site and surrounding streets, roads, and prominent landmarks):

Upper Grant Avenue, San Francisco - continuation page 1.

ITEM 7b. (cont.) plane entry may lead to a central staircase giving onto the various apartments. Most buildings were constructed 1906-1910, hardly any after 1929, so that all have false fronts and overhanging cornices. Most intrusions are merely insensitive remodelings of the basic fabric and capable of restoration.

ITEM 19. (cont.) There also came into being businesses catering to the would-be artists and writers: bars and various gathering places, especially during upper Grant's most notorious years, the Beatnik era of the late 1950s. There is no other area in San Francisco like the upper Grant district, with its cohesiveness of architecture, ethnic atmosphere and visual rhythm of streets. One knows one is is North Beach.

CONTRIBUTING BUILDINGS

On the following continuation pages, all elements which contribute architecturally or historically to the Upper Grant Avenue District are listed alphabetically by streets and in numerical order on each street. Entries are numbered in this order and shown on the accompanying map by number. Non-contributing structures are not listed. For each element the most significant information is given. First come abbreviated identification and construction data, recognition, owner and uses, then description and/or history, finally (sources). Any building name was found on the structure itself, on Sanborn insurance maps, or in the San Francisco Directory during the structure's initial years.

ABBREVIATIONS

a = architect.

alt = alterations (major).

B = basement.

BPA = Building Permit Application.

c = contractor.

DCP = Department of City Planning, San Francisco, 1976 Survey of architecture: 5 is highest rating, 0 is worth noting.

Ed Ab = Edwards Abstract of Records, San Francisco.

est = estimated.

Gumina = Gumina, Deanna Paoli, The Italians of San Francisco, 1850-1930, New York, 1978, Center for Migration Studies.

IU = interim use.

L'Italia = L'Italia (Italian-language daily), San Francisco, special edition 1907 (probably about 18 April).

M = mezzanine.

oo = original owner (from building permit or similar source).

OU = original use.

PO = present owner.

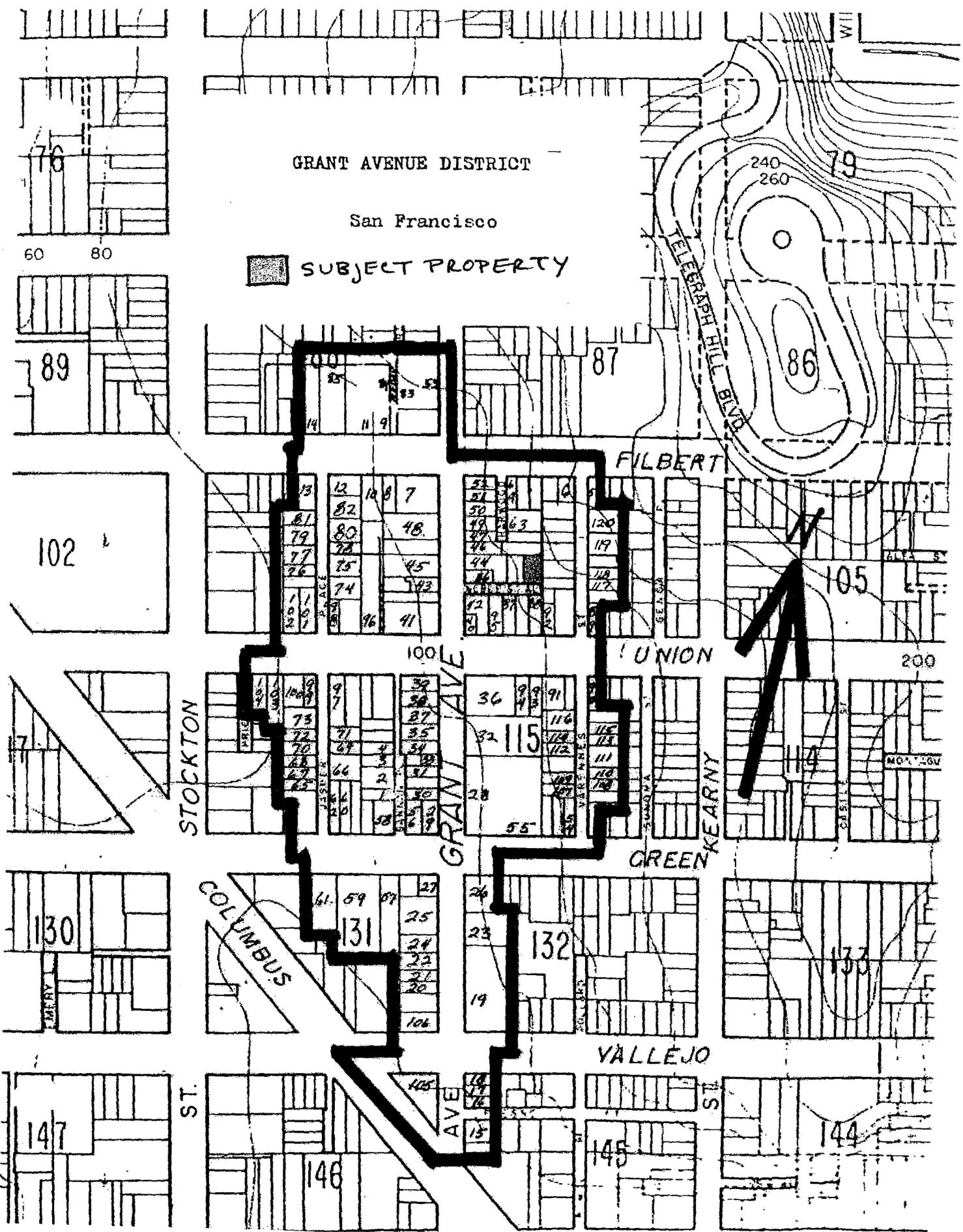
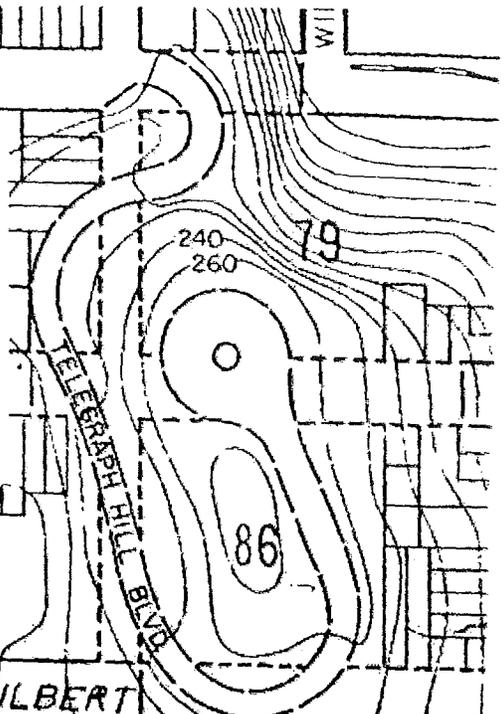
PU = present use.

SF = San Francisco.

GRANT AVENUE DISTRICT

San Francisco

 SUBJECT PROPERTY





41. 1501 Grant Ave., 12 Union St. Parcel 103/7. 1917, oo: L. & G. Demartini. PO: Ada Torrigino. PU: Cuneo/Italian-French bakery, since 1979. OU: bakery. IU: Royal Baking Co. 1933; Lido Baking Co. 1940-1944; Italian-French Baking Co. c. 1960-1979. Alt: store fronts partly bricked up after fire. This 1-B brick has a Mission Revival cornice with tile insets. It is North Beach's most fireproof bakery building, and the only one without residence space above. A merger of 5 bakeries in 1917, Italian-French Baking Co. (see #27) merged with Cuneo Baking Co. (see #57) after 1979 fire. (BPA 77357; Gumina: 137.)

42. 1508-1510 Grant Ave. Parcel 104/23. 1912, a: Frank S. Holland, oo: P. Enrico & V. Collori. PO: Adolph & Rose Boschetti. PU: apartments over laundromat. OU: apartment over store. IU: Papera grocer, 1933; Boschetti grocer, 1940-1944. Alt: penthouse added, facade stuccoed. This 3-story, 34-foot-high, double-bayed frame has its original vernacular Classic cornice and transom strip. The lot contains a separate matching building at 484 Union. (Ed Ab 20 Aug. 1912.)



43. 1519-1523 Grant Ave. Parcel 103/5. 1912 est. PO: Peter Cee. PU: 2 apartments above architect's office. OU: 2 apartments above store. IU: Palladino laundry, 1929-1933. This 3-B vernacular Classic frame has 2 bays, a complete cornice and a nearly intact, restored storefront. The lot also contains a 3-B, 3-flat building on Cadell.

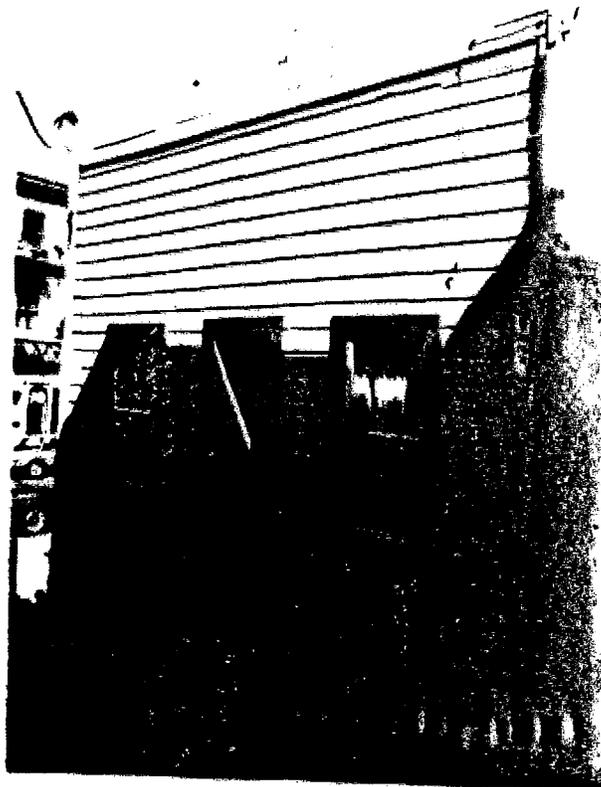


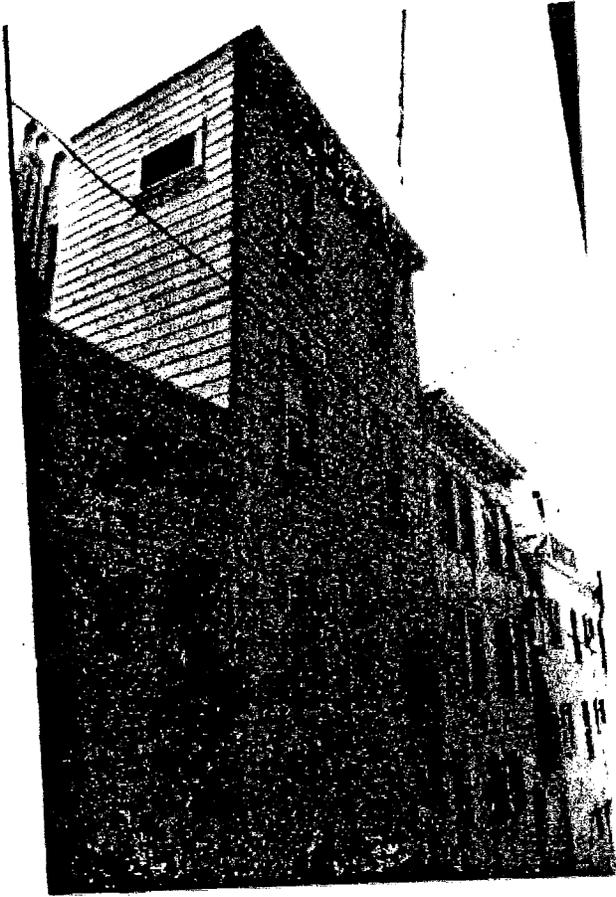
44. 1522-1526 Grant Ave. Parcel 104/27. 1906, a: Harold D. Mitchell, oo: Luigi Ferrari & wife. PO: Nathan Louie. PU: 2 flats over store. OU: 2 flats over N. Grillich Co. plumbers. IU: Bertiglia grocer, 1933; Caputo grocer, 1940. Alt: stripped, stuccoed, tile rooflets added. The basic vernacular Classic shape of this 3-story frame survives, contributing to the overall streetscape. Also on the lot is a 2-B, 2-apartment frame with rustic siding, at 6 Noble's Alley. (Ed Ab 2 Oct. 1906.)



85. 51-61 Medau Pl. Parcel 88/9. 1909 est. PO: Yen Way Leong. PU: 9 apartments. OU: same. This 3-B vernacular Classic frame has 3 rectangular bays with string courses. Between them are 2 enclosed "Romeo" entrances with stacks of stair-windows between the floor levels. Except for the door hood brackets all ornament is machined wood moldings. On the other side of the lot, 540-550 Filbert is a 3-B, 9-apartment enclosed "Romeo" with asbestos shingles and oversimplified cornice.

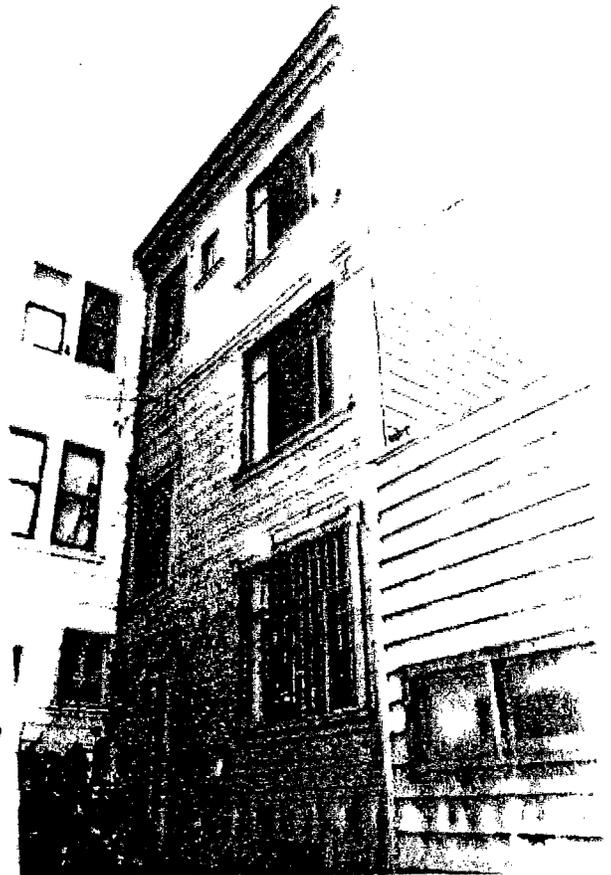
86. 2 Noble's Alley. Parcel 104/26. 1906 est. PO: Euphrosyne Northcutt. PU: 1-unit residence. OU: same. This 1-story, false-fronted frame has no cornice or other ornament except rustic siding and broad boards around the windows. A 3-car parking lot fills the parcel to Grant Avenue.





87. 15 Noble's Alley. Parcel 104/21. 1906 est. PO: L. Singola. PU: 3 apartments. OU: same. Alt: Union Street facade (472) stripped & stuccoed. This is the rear portion of a building at 472 Union St. which has been altered. The 3-B rear portion has not; it has rustic siding, a cornice with dentil molding, a simple pediment over the entry and shouldered moldings around the windows.

88. 21-25 Noble's Alley. Parcel 104/19. 1908 est. PO: John Chan. PU: 3 apartments this side, 3 more apartments Union side. OU: same. Alt: windows here & whole Union facade. This is the vernacular Classic rear portion of a building at 460 Union St. which has been altered. The 3-B building on this side has alternating wide and narrow rustic siding, cornice with both dentil and egg-&-dart molding, and a simple door hood.





95. 478-482 Union St. Parcel 104/22. 1923 est. PO: L. Singola. PU: 2 apartments over Yone beads store. OU: 2 apartments over store. This 3-B vernacular Classic frame has 2 rectangular bays and a straight-line cornice overhanging them. The store is in original form except for a 1930s tile base. A narrow entry arch and street tree complete the picture. Also on the lot, 5-9 Noble's Alley is a 3-story, 3-apartment vernacular Classic frame with smooth siding, good dentilled cornice, new rustic base and old corner boards.

96. 524 Union St. Parcel 103/9. 1908 est. PO: Frederic Hobbs. PU: Silhouettes Restaurant, offices. OU: saloon & restaurant, "tenement" rear, bocci ball court. Alt: Victorian-type stained glass transom. On this 2-B vernacular Classic frame, simple pilasters divide the Union Street facade into 2 parts, the Cadell Alley one into 3. Behind, the building extends a single story with a half-story and balcony over it, and further extends to a small, square, 2-flats, 2-story frame. Arts-&-Crafts mullions decorate many of the Cadell side windows.



Exhibit 11



Edwin M. Lee
Mayor

Cynthia G. Goldstein
Executive Director

AFFIDAVIT OF SERVICE

Dudley & Eustace de Saint Phalle, Appellants
20 Nobles Alley
San Francisco, CA 94133

I, Gary Cantara, Legal Assistant for the Board of Appeals, hereby certify that on this 26th day of September 2017, I served the attached **Notice of Decision for Appeal No. 17-088, de Saint Phalle vs. Department of Building Inspection**, subject property at 20 Nobles Alley, on the appellant by mailing a copy via U.S. mail, first class, to the address above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in San Francisco, California.

September 26, 2017

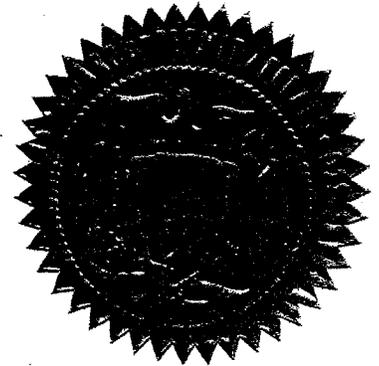
Date



Gary Cantara

cc:

Joseph Duffy, Senior Building Inspector
Department of Building Inspection
1660 Mission Street, 5th Floor
San Francisco, CA 94103



BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal No. 17-088

Appeal of
DUDLEY & EUSTACE DE SAINT PHALLE,)
 Appellant(s))
 vs.)
DEPARTMENT OF BUILDING INSPECTION,)
PLANNING DEPARTMENT DISAPPROVAL Respondent)

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on May 19, 2017, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the DENIAL on May 10, 2017, of an Alteration Permit (garage door correction per NOV No. 201620916; seal unpermitted garage door; relocate legal garage door to center of ground floor) at 20 Nobles Alley.

APPLICATION NO. 2016/08/09/4528

FOR HEARING ON July 12, 2017

Address of Appellant(s):	Address of Other Parties:
Dudley & Eustace de Saint Phalle, Appellants 20 Nobles Alley San Francisco, CA 94133	N/A

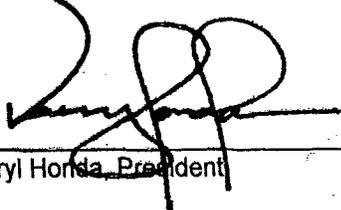
NOTICE OF DECISION & ORDER

The aforementioned matter came on regularly for hearing before the Board of Appeals of the City & County of San Francisco on SEPTEMBER 13, 2017.

PURSUANT TO § 4.106 of the Charter of the City & County of San Francisco and Article 1, §14 of the Business & Tax Regulations Code of the said City & County, and the action above stated, the Board of Appeals hereby **GRANTS THE APPEAL AND ORDERS** that the DENIAL of the subject permit by the DEPARTMENT OF BUILDING INSPECTION is **OVERRULED** on the basis that the 1998 permit in the record authorizes one garage, and on the condition that the plans dated August 21, 2017 (attached) be adopted to remove the second garage opening.

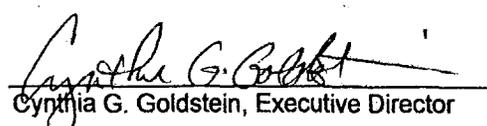
THE SUSPENSION MAY NOT BE LIFTED UNTIL FULL-SIZE SETS OF SAID PLANS ARE ACCEPTED BY BOARD STAFF, THEN APPROVED BY THE DBI AND PLANNING DEPT., AND UNTIL THE DBI ISSUES A SPECIAL CONDITIONS PERMIT WHICH EXECUTES SAID PLANS.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO



Darryl Honda, President

Last Day to Request Rehearing: September 25, 2017
Request for Rehearing: None
Rehearing: None
Notice Released: September 26, 2017



Cynthia G. Goldstein, Executive Director

If this decision is subject to review under Code of Civil Procedure § 1094.5, then the time within which judicial review must be sought is governed by California Code of Civil Procedure, §1094.6.

Exhibit 12

2017 SEP 27 AM 9:48

LETTER of APPEAL of CATEGORICAL EXEMPTION

To: Supervisor London Breed, President
San Francisco Board of Supervisors, Room 244
City Hall / 1 Dr. Carlton Goodlett Place / SF CA 94102
<London.Breed@sfgov.org> (415) 554-7630

Attn: Brent Jalipa, B.O.S. Legislative Clerk
<brent.jalipa@sfgov.org> (415) 554-5184

Cc: Aaron Peskin, Supervisor, District 3
San Francisco Board of Supervisors
City Hall, Room 282
<Aaron.Peskin@sfgov.org> (415) 554-7450
<lee.hepner@sfgov.org> (415) 554-7419

Cc: Scott F. Sanchez, Zoning Administrator
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
(415) 558.6350 <scott.sanchez@sfgov.org>

Cc: Eiliesh Tuffy (CPC) Planner/Preservation Specialist
SF Planning Department
(415) 575-9191 <eiliesh.tuffy@sfgov.org>

Re: Per San Francisco Administrative Code §31.16(e)(1) an Appeal of a CEQA Categorical Exemption, # 2016-014104ENV, regarding 20 Nobles Alley (Block Lot 0104 / 025), consequent to D.B.I. Notice of Violation # 20160916, Permit Application # 201608094528, a D.B.I. Directors Hearing (January 17, 2017), a Notice of Planning Department Disapproval (May 8, 2017), and an appeal of that Disapproval before the San Francisco Board of Appeals July 12 and September 13, 2017 (# 17-088)

September 27, 2107

Dear Board President Breed,

Thank you for accepting this appeal of the above referenced categorical exemption for consideration, discussion and vote by the San Francisco Board of Supervisors.

I. Introduction

My name is Marc Bruno and my 600 square foot residence is 15 Nobles Alley, San Francisco, across the street and 25 feet to the west of the subject property, 20 Nobles Alley. My northward facing windows face the subject property. The entrance to my apartment requires me to access a door fronting Nobles Alley, 38 feet southwest of the

*LISA GIBSON
ENVIRONMENTAL REVIEW OFFICER
PLANNING DEPT.
1650 MISSION ST., SUITE 400
415-575-9032
lisa.gibson@sfgov.org*

proposed project: the new construction and/or modification and legalization of a garage and/or garages at 20 Nobles. These various proposals *all* have been proposed under the same permit, the permit on which the subject Categorical Exemption is based. —

On or about June 1, 2017, I filed a complaint with the City and County of San Francisco concerning two illegal, un-permitted garages at 20 Nobles Alley. I am the Complainant in the matter. As a consequence of the Building Department determining on or about August 2, 2016 that the subject garages were in fact *illegal*-- no permit, plans, approvals nor job cards for such garages ever having been found-- the property owners received an N.O.V. prior to purchasing the building and as a result applied for a permit to "Seal unpermitted garage door, relocate legal garage door to center of ground floor."

As **neither** garage door was ever found to be legal, it is impossible to know from this permit description what is meant by "legal garage door."

II. Objection to and Appeal of Categorical Exemption 2016-014104ENV

Please know that by this email, delivered today by hard copy as well, I notify you that I object to and appeal the attached Categorical Exemption for 20 Nobles Alley, San Francisco, California, Block / Lot 0104/025; Case Number 2016-014104ENV. The review on which the Categorical Exemption is based is the review of Building Permit Application 201608094528, which was appealed by the permit-holders (subsequent to the N.O.V. and Planning Department Disapproval) to the San Francisco Board of Appeals, a matter heard by that Board on July 12, 2017 and September 13, 2017 (Appeal 17-088).

III. Planning Department Email rationalizing "Categorical Exemption" at 20 Nobles Alley

In an attempt to explain to Marc Bruno, the appellant herein, the rationale for awarding permit-holders a Categorical Exemption based on plans submitted by them that contradict their own permit (Permit Application 201608094528), City Planner Eiliesh Tuffy, in an email dated September 18, 2017, states the following:

"Fr Tuffy, Eiliesh (CPC) <eiliesh.tuffy@sfgov.org> To Marc Bruno
CC Silva, Christine (CPC) Sanchez, Scott (CPC) Tam, Tina (CPC) Sep 18 at 5:57 PM

Dear Mr. Bruno,

Standards for CEQA Review

Alterations to a building within the district, whether found to be contributing or non-contributing at the time of the survey, are evaluated for CEQA conformance using the Secretary of the Interior's Standards for Rehabilitation. The Standards apply to publicly visible exterior alterations on otherwise private property.

CEQA review is limited to the proposed scope of work, and what impact – if any - the work would have on the historic integrity of the historic resource.

The historic resource in the case of 20 Nobles is the entirety of the Upper Grant Avenue Historic District.

The proposal to remove unapproved door, window and vent openings from the publicly visible façade of 20 Nobles -- because it was restorative in nature and was based on documented pictorial evidence -- qualified for a Categorical Exemption from CEQA under Standard 6:

'6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.'

The scope of work for this project did not require new evaluative analysis of the property's historic status, as the work proposes to remove unpermitted alterations and bring the façade back to a more historic appearance.

Sincerely,

Eiliesh Tuffy, Planner/Preservation Specialist"

IV. A Categorical Exemption at 20 Nobles Alley based on the above-referenced Interior Department "Rehabilitation Standards" is a misapplication of Federal Law and Policy, and therefore should be Overturned

IV. (1.)

The department's Categorical Exemption is misapplied at 20 Nobles Alley because it is inconsistent with law, practice and policy. Nothing in the Secretary of Interior's Standards for Rehabilitation of Historic Structures encourages, permits, recognizes or condones the legalization of an illegally built addition that as of the day of the Categorical Exemption never had been made legal by any governmental agency, inspection process or review board.

That is particularly true here, where, as a consequence of the illegal addition-- illegal garages built in 1997 or 1998 up to and including the day Planner Tuffy issued the Exemption-- the historic integrity of the building, and the historic integrity of the immediate neighborhood and of the North Beach Historic District itself were all damaged by the very act of the garages being illegally installed in the first place.

Garages built without plans, without permits, without input from the neighborhood. Without even an inkling of a request for approval by any city agency or department. Garages that do not conform to the history and style of the building, the alley, the neighborhood or the historic district.

Planner Tuffy takes the liberty of taking permit-holders at face value when they label these garages (or, at least, one of them) "legal". There is no basis in the law or public policy for her doing so.

Both garages were *illegal* on the day of the Categorical Exemption, September 8, 2017. As illegal as the day they were built. Ms. Tuffy's fellow City Planner, Zoning Administrator Scott Sanchez, confirms this before the Board of Appeals on July 12, 2017. And in Ms. Tuffy's own "Notice of Disapproval" (May 8, 2017), she states unequivocally the garages never went through any form of permitting and were therefore illegal. (Attached, "Notice of Planning Department Disapproval," p. 2)

Scott Sanchez Testimony regarding legality of garages at 20 Nobles, Board of Appeals Meeting 07.12.17, Time Code 1:57:13, Appeal # 17-088:

Zoning Administrator Scott Sanchez:

"There was never a permit as a garage. There was a permit from the late '90s that showed an existing garage. But there was no permit adding that."

Board of Appeals President Darryl Honda:

"But there was an existing garage there at one time, right?"

Sanchez:

"Not legally. So, we have a member of the public, Mr. Bruno, who I believe can provide more information. We have a photo from the early '90s showing no garage, no garage in this building."

Honda:

"Okay."

Sanchez:

"Then there's a permit from the late '90s showing an existing garage. Existing condition. Magically appearing as an existing condition. There's no evidence of any permit from the date of that photo until the date of the permit that shows it as an existing condition. There is no evidence of any permit establishing that garage. And then, beyond that, they went ahead to install a second garage without any permits."

The categorical exemption is ill-considered and unjustified because it is based on a plan that falsely labels the existing condition on the property the exact opposite of what it is: illegal.

The permit holders at 20 Nobles Alley consistently write on their plans, their permit applications and on their appeal to the Board of Appeals, "legal garage," as if saying so enough times will make it true. This is no different than appearing with expensive movie cameras in another country and shouting at people in English to get out of the way, even though nobody there speaks English (nor should).

All the elaborate recording instruments and all the shouting in the world doesn't change the fact that on the day of the Categorical Exemption the garages at 20 Nobles were deemed illegal by every city agency and department that investigated them. And had been illegal since the day they were built almost 20 years before.

They were deemed illegal by Building Department Inspector Maurizio Hernandez, after extensive research. They were deemed illegal by the Department of Public Works upon the request by the current owners for a curb cut in 2016. And they were deemed illegal by Ms. Tuffy herself in the Planning Department *Notice of Disapproval* of the project ("Notice of Planning Department Disapproval," May 8, 2017, addressed to Eustache and Dudley de St. Phalle).

It is obvious that permit-holders do not want to admit they bought 20 Nobles Alley completely aware-- and made aware in-person by the City-- of purchasing two illegal garages. In an Enforcement Division DBI Director's Hearing January 17, 2017 (a hearing I attended), inspectors had to repeat their question concerning this issue to the permit-holders five times: "Did you know about this problem before buying the building?" It was only after grilling them that the permit-holders admitted to having pre-sale knowledge of the illegal garages.

IV. (2.)

The assumption that a garage might remain at 20 Nobles as part of a plan to "rehabilitate" the building contradicts the Interior Secretary's *Guidelines* for implementation of the Interior Department's Rehabilitation Standards. Such garage or garages, even with the so-called rehabilitation of two apertures attempting to duplicate the facade shown in a 1958 photo of the building (the building was constructed 52 years earlier), contradict those sections of the *Guidelines* addressing "Wood," "Masonry," "Entrances" and "New Additions" to historic buildings. (Each is a separate section of the *Guidelines*.)

In the *Not Recommended* chapter of the "Entrances" section of the *Guidelines*, for instance, the Secretary warns,

- "A. Cutting new entrances on a primary elevation *is not recommended*.
- B. Altering utilitarian or service entrances so they appear to be formal entrances by adding paneled doors, fanlights, and sidelights *is not recommended*."

Yet this is exactly what City Planner Tuffy would be allowing the permit-holders to do at 20 Nobles Alley, were the Categorical Exemption not overturned. All as an excuse to build a garage where the City and its elected officials have long since legislated that no such garages should be. (City Planning Code, Section 249.49)

In the "New Additions," *Not Recommended* chapter of the *Guidelines*, the Secretary warns,

- "D. Imitating a historic style or period of architecture in new additions, especially for contemporary uses such as drive-in banks or garages *is not recommended*."

12

While it is obvious the Secretary is here referring to the preservation of *both* commercial *and* residential buildings, the *not recommended* label is no less relevant to 20 Nobles. Under the rubric of a "categorical exemption," an ersatz restoration would be permitted, only for the sake of a garage, which is itself an expressly "not recommended" addition to the facade.

The only way for the City to prevent this-- and to be consistent with the Secretary's Standards and *Guidelines*-- is for the Board of Supervisors to decisively overturn the categorical exemption and apply nothing less than a mitigated negative declaration to a review of the project at 20 Nobles Alley.

IV. 3.

The garage at 20 Nobles, under a Categorical Exemption, also would be non-conforming with the neighborhood. For this and the additional reasons here listed, such a structure, build out and curb cut would contradict the Planning Department's own *Guidelines for Adding Garages and Curb Cuts*, Zoning Administrator Bulletin Nos. 2006.1a and 2006.1b.

IV 4.

The remaining garage door also undermines express provisions of the Planning Code, specifically Section 249.49, passed by the elected officials of the City and County of San Francisco in 2010, which read, in part,

"Purposes. To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, nor impair pedestrian use on narrow public rights- of-way."

San Francisco Planning Code Section 249.49

Neither CEQA nor the Secretary of Interior's Rehabilitation Standards contemplate the use of state and federal law to overturn local legislation, especially when, as here, the express purpose of that local legislation is to embrace and adopt for local purposes the goals of national and state environmental policy. To educate. To conserve. To better know. To enhance. To honor and respect the physical and cultural environment in all its stunningly beautiful forms.

Were a "categorical exemption" to be used to install a garage at 20 Nobles Alley, where no legal garage had ever before existed, the 2010 legislation drafted and passed by the City's elected officials to deliberately block such structures would be undermined, and the Supervisors' intentions circumvented by administrative fiat.

Further, no plans were ever submitted for public review of the project until just before the second and final hearing on it-- September 13, 2017. This severe lack of transparency is evidence of a planning process that contradicts one of the primary purpose of environmental review: Public input in open forums noticed to the

community in a meaningful and timely manner. The City's failure to reveal the plans for this project in a timely manner is a violation of public records laws, including the City's Sunshine Ordinance. The records were available to the City and requested by me and others for over one year before they were ever made available. The plans finally given to us by the Department and permit-holders were not the original plans-- not the plans we asked for-- as they are dated more than one year later.

V. San Francisco Elected Officials, as well as representatives of the City's Planning Department, have expressed the views of the community at-large regarding the environmental fragility and cultural significance of 20 Nobles Alley. They have done this in notices of determination, reports, surveys, letters of advice, and amendments to the Planning Code, including the passage in 2010 of Planning Code §§ 249.49 et, seq.

Were the Department to allow one or more garages in the narrow space fronting 20 Nobles, or permit the building of a new garage there, it would effectively circumvent the express purposes of Planning Code §§ 249.49 et, seq. (2010). Planning Department rep Scott Sanchez labeled this ordinance "confusing" at the July 12, 2017 Board of Appeals hearing, but the Code is not at all confusing when it comes to the purposes of the law:

"San Francisco Planning Code Section 249.49. Purposes. To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert residential buildings from rental buildings to tenancies-in-common."

To regulate. To decrease pollution. To protect rental units. That is directly from the law as written. What "narrow public right of way" in the entire City of San Francisco is narrower than the sidewalks adjacent to and across from 20 Nobles Alley? You will not find them. Sidewalks traversed hourly by residents of the alley who enter and exit 45 units accessible only via Nobles Alley.

The City has cited the permit-holders of this property for illegally using 20 Nobles for Short Term Rentals in a manner prohibited by the Short Term Rental Control Ordinance (Administrative Code Chapter 41 (A)). As it is recognized that such short term rentals--especially illegal ones, as here-- have an adverse effect on the availability of rental properties for San Francisco residents, to legalize a garage here *undoes* what the City's elected legislative body has chosen in this and other legislation to *do*, to support and encourage a housing stock of variably priced rental properties that are open and available to *all* residents, be they homeless, poor or middle-class.

Prior property owners and other interested parties (for instance, the City itself) had the means at their disposal to initiate action to legalize the un-permitted garages at 20 Nobles in a timely manner, for more than ten years up to and including December 31, 2010, the day prior to the City's implementing Planning Code Section 249.49.

The burden of the negligence in this respect-- of a continued lack of interest in legalizing what these prior owners must have known was *illegal*--- must fall on them rather than on the neighborhood as a whole. In this regard, Streets Use and Mapping has noted that there never has been a curb cut at this address, a clear indication that the garages were known to be illegal by everyone who took possession of the property.

The current property owners, while innocent of the installation of the illegal garages in 1998, were told in person by Building Inspector Mauricio Hernandez and other DBI reps prior to their purchase of the building that the garages were unpermitted and illegal. The current owners also received a formal "Notice of Violation" tacked to the building stating these facts, prior to their purchase of the property. For these same owners to come before the City's Appeal Board (just three months after being cited for illegal short term rentals) and ask that they be given a garage in an alleyway where garages are now *prohibited* (under Planning Code 249.49) is unwarranted and insulting.

If the elected members of the Board of Supervisors chose to add exceptions to the 2010 amendment to the Code, Section 249.49, exceptions, for instance, for "unused garages," "illegal garages," "un-permitted garages" "obstructive garages" "unsightly garages" or "historically anachronistic garages" (all of which accurately describe the illegal garages at 20 Nobles Alley), the Board of Supervisors in 2010 *would have included such language as part of the Ordinance*. They choose not to for good reason, and public policy now dictates that the Planning Department follow the lead of your predecessor Board and prohibit garages in this alley.

VI. Historic Significance of 20 Nobles Alley, Nobles Alley in its entirety and the North Beach Historic District

As noted in the City's own review, the two buildings located at 20 Nobles are "Class A" contributors to the Historic District. The City has, by its own words at the Board of Appeals, by its website and by the attached "Categorical Exemption" made it increasingly difficult if not impossible to understand whether 20 Nobles is or is not a "contributor," what the City means by "contributor" and what category of contribution this entails. This confusion is so extreme that at the hearing of July 12, 2017, on this very subject, the single architect on the Board of Appeals, Mr. Frank Fung, was left with the impression by the City that the building might be considered a "B" contributor, even though here, by writing, and just two months later, 2016-014104ENV labels the property an "A."

This confusion has a profound effect on the ability of neighbors to participate in a review of the project and is once again evidence of a process out of synch with CEQA and other policies requiring environmental review.

As noted by Mr. Albert Yee, whose sworn testimony before the Board of Appeals is attached, no changes were ever made to the property during the ownership and tenancy of the property by his family (1958 - 1997), with the exception of the application of a stucco frontage to one of the two buildings there, this frontage being applied in a careful manner to preserve and not alter the existing redwood siding, beveled, that is still on the face of the building and has never been removed.

Mr. Yee also notes in his testimony that neither he nor any member of his family has ever been contacted by the Planning Department, or by other City agencies to ascertain the cultural value or architectural history of the buildings at 20 Nobles, an error in applying CEQA requirements to this review. His family was part of a significant vanguard of Chinese land-owners in North Beach who achieved a number of "firsts" that must be recognized by the City at-large and by any reasonable environmental review.

Even if Planning Department reviewer Eiliesh Tuffy, the City Planner who wrote the attached report labeling 20 Nobles Alley 'categorically exempt' has completed all 'paper trail review' requirements (City phone books, reverse address directories, Sanborn Maps, etc.) *even then*, the City is obligated to personally contact former owners of the property when those owners, as is the case here, have made themselves available to planners and have a significant narrative to add to the planner's understanding of the historical, architectural and cultural value of a property and district.

To legalize one or more of those garages in this narrow space, or to permit the building of a new garage, is to necessarily have a negative impact on the natural environment, the historic context of the property and the cumulative effect of this and the surrounding structures that make 20 Nobles part of a vivid and significant portrait of San Francisco, the adjacent block of Grant Avenue, North Beach, and, indeed, the nation at-large. A notable and uniquely preserved architectural gem in America.

VII. The Plain Meaning Interpretation of the California Environmental Quality Act (CEQA) requires environmental review at 20 Nobles Alley

I base my appeal of the above referenced Categorical Exemption on the language and plain meaning interpretation of the California Environmental Quality Act (CEQA), to wit, that CEQA provides that a project "may not be categorically exempt from further environmental review if substantial evidence in the record supports a fair argument that the project may have a significant effect on the environment."

Among other causes, this project will have substantial effect on the natural environment because it would add a legal garage at the end of an 11' wide alleyway, circumscribed tightly by three adjacent apartment buildings and located in one of the most densely populated blocks of the City, used constantly by pedestrian traffic traversing a tightly knit matrix of historic buildings, with little or no available green space, public or private.

(The ratio of residents to green space in the four block area surrounding Nobles Alley is one of the highest ratios in the City and County of San Francisco. If, in addition to this four block area, the residents and visitors to Chinatown are included, a 16-block area, the ratio of people-to-open space parkland is the worst-- that is, least green space available-- in the entire state of California.)

Vehicular traffic is projected to rise, based on increased tourism, reverse-commute tech workers who live in this and adjacent blocks on Grant Avenue and travel by jitney, car share and other means to places of work in Silicon Valley. The area is frequented as well by users of AirBnB and other short-term rental programs adding to the density and frequency of intermittent travel made by tourists to and from the adjacent blocks.

Additionally, CEQA Guidelines Section 15300.2 provides that a project "shall not be exempt from environmental review if the project may cause a substantial adverse change in the significance of a historic resource or where the project may contribute to a cumulative impact on a historic district."

That would be the precise impact of allowing a garage at 20 Nobles Alley. As was pointed out by numerous witnesses and by in-person testimony offered by sworn witnesses at the aforementioned hearings, the current illegal garages have never been used. To make one or both of the garages "legal" at 20 Nobles is to make them usable. To effectively add a garage in a historic North Beach structure, namely, 20 Nobles, contrary to the Secretary of Interior's Standards for Rehabilitation, cited above, among other provisions of this and other state and national environmental laws.

VIII. CONCLUSION

The burden of a new or legalized garage or garages falls squarely on the shoulders of the property owners who purchased the building knowing full well it had no legal garages. Their desire for a garage at this late date should not supersede the neighborhood's needs-- nor the provisions of local, state and federal law guaranteeing something that all urban dwellers strive to create, cherish and protect: A clean environment, a vibrant and diverse culture, a respect for historic resources and a fostering of our streets and sidewalks to meet our ever-growing pedestrian needs.

Nobles Alley is an intimate and unusual urban space, a narrow and steep ascent marked by historic integrity, cultural diversity, physical serenity and grace. We ask that CEQA be applied with due process and environmental justice to this corner of the City. We demand as renters and residents, businesses and property owners, old and young that a robust and responsive review-- not a "categorical exemption" but, at the very least, a mitigated negative declaration--be applied as the standard of review at 20 Nobles.

Whether a garage is built from scratch or "legalized," refurbished into existence or, in the mysterious words of the permit-holders, "move legal garage to center"-fied, the effect on the existing neighborhood, and on limited transportation and cultural resources, is the same. An effect that cannot be comprehended nor integrated into the matrix of this Special Use and Historic District without a meaningful application of CEQA.

Thank you for your considered attention and discussion of this appeal.

Signed,

Marc Bruno
15 Nobles Alley
San Francisco CA 94133
415-434-1528 <marcabruno@yahoo.com>

Note : It is our intention to submit additional documents supporting this appeal prior to the 30 day expiration period. Thank you.

November 3, 2017

B.O.S. File 177053, 20 Nobles Alley

INTRODUCTION - ADDITIONAL SUBMISSIONS

We are appealing the categorical exemption for this project, File number 171053, a Special Order to be heard on November 14, 2017

As there is an Ethics Complaint regarding the vote on this project before the Board of Appeals on September 13, 2017 we respectfully request that the hearing before the B.O.S. be continued until the Ethics Commission completes its investigation.

We have presented a well-documented case to the Ethics Commission that Commissioner Richard Swig of the San Francisco Board of Appeals was under Ethics Code requirements to recuse himself from voting on this matter. This case is described in detail in the attached Ethics Complaint (1718-026).

We also presented a well-documented case that Commissioner Swig was required to disclose his relationship with the expediter for this project, 20 Nobles, a man who also serves on the San Francisco Board of Examiners and has rented his sole business office space from Mr. Swig since 1988.

As the vote before the Board of Appeals on September 13th was 4-to-1, Commissioner Swig's recusal would have meant that the Board turned down the project sponsors' appeal, and we would not be here today asking for a reconsideration of the categorical exemption.

Sincerely,



Marc Bruno
Appellant
15 Nobles Alley
San Francisco, CA 94133
415-434-1528

Additional Submissions B.O.S. File 171053

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- I. **Ethics Complaint Concerning this Project, 20 Nobles Alley**
- II. **Neighbors Letters asking the Board of Appeals not to Approve the Project**
- III. **Summary of the Appeal of the Categorical Exemption**
- IV. **Two documents referenced in the Summary (Item III)**
 - A. **Notice of Planning Department Disapproval of 20 Nobles**
 - B. **Planning Code Section 249.49, Telegraph Hill - North Beach Special Use District**

I. Ethics Complaint, 20 Nobles Alley

Ethics Complaint 1718-026, Concerning 20 Nobles Alley

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- II. Facts**
- III. Discussion**
- IV. Documentary Evidence of Ownership of 220 Montgomery Street ("Mills Building") by Richard Swig, Board Member, San Francisco Board of Appeals**
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- VI. Documentary Evidence of Tenancy at 220 Montgomery Street by Eustache de St. Phalle, Party to Appeal No. 17-088, San Francisco Board of Appeals**
- VII. Documentary Evidence of Tenancy at 235 Montgomery Street by Patrick Buscovich, Member of the Board of Examiners and Representative, Eustache de St. Phalle, before San Francisco Board of Appeals**
- VIII. Documentary Evidence of Professional Services provided to 235 Montgomery by Patrick Buscovich, Representative of Eustache de St. Phalle before San Francisco Board of Appeals**
- IX. Activities by Mr. Swig and Mr. Buscovich are in conflict with the Statements of Incompatible Activities, Board of Appeals**
- X. Attachments**

Marc Bruno to San Francisco Ethics Commission
September 29, 2017

FILED

17 SEP 29 PM 4:07

Conflict of Interest Complaint, Board of Appeals Member
Complainant: Marc Bruno Respondent: Richard Swig

SAN FRANCISCO
ETHICS COMMISSION

I. Complaint Summary

BY _____

Mr. Richard Swig, a Board Member of the San Francisco Board of Appeals, failed to disclose his business relationships with two parties who appeared before the Board of Appeals of behalf of Appeal 17-088, a matter deliberated and voted upon at the July 12, 2017 and September 13, 2017 meetings of the Board.

Mr. Swig also was required to recuse himself from voting on the matter in which these parties appeared. He did not do so.

Failing to disclose his relationships with Mr. Eustache de St. Phalle, the appellant, and Patrick Buscovich, his representative, Mr. Swig violated and continues to violate Section 3.214 of the San Francisco Campaign and Governmental Conduct Code, commonly referred to as the City's Ethics Code.

Failing to recuse himself from voting on this appeal, Mr. Swig skewered a 4-to-1 vote in favor of two men with whom he has business relationships, benefitting them. Given the extent and nature of these relationships, the public could reasonably question the ability of Mr. Swig to act for its benefit.

Eustache de St Phalle's Business Relationship w. Board Member Richard Swig

Mr. de St. Phalle is a lawyer and named partner in the firm Rains, Lucia, Stern, de St. Phalle and Silver. Since October 1, 2011, the firm maintains a San Francisco office, of which Mr. de St. Phalle is the lead partner. That office is the entire 15th floor of 220 Montgomery Street, a building owned by Mr. Swig's family partnership. Mr. de St. Phalle's law firm has paid Swig LLC \$18,770,640.

In 2011, the year that the firm opened the San Francisco, Mr. de St. Phalle, then with another firm ("The Veen Firm") was named "Of counsel" in the same Press Release announcing the opening of the office in the Mills Building. In 2015, Mr. de St. Phalle joined the firm "Rains, Lucia and Stern" as a full-Partner, and his name was added to the marquee. From the time of Mr. de St. Phalle's becoming a named partner at the firm, the firm has paid Swig LLC approximately \$6,250,880.

Patrick Buscovich's Business Relationship w. Board Member Richard Swig

Patrick Buscovich & Associates has been a tenant at 235 Montgomery Street since 1998. Mr. Swig lists this building as a "source of rental income of \$10,000 or more" on each and every Statement of Economic Interest (SEI) filed with the City's Ethics Commission from 2007 to 2017 (a total of seven SEI Reports). Mr. Buscovich, besides being a 19-year tenant at 235 Montgomery provided professional engineering services to the building. (Buscovich & Associate's website advertising this event, Attached. Also see, San Francisco Property Information Map, "235 Montgomery," Building Permit 2013.1395H, Attached.)

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II. Facts

Mr. Richard Swig is an appointed member of the five member San Francisco Board of Appeals. He has served on this board for the years 2014, 2015, 2016 and 2017. Prior to this, Mr. Swig served on the San Francisco Redevelopment Agency Board, another review body subject to the requirements of the San Francisco Campaign and Governmental Conduct Code, and 42 U.S. Code § 1983, for the years 2007, 2008, 2009, 2010 and 2011.

Mr. Swig also has served on numerous other boards, commissions, advisory groups and task forces in San Francisco and in St. Helena, California, where Mr. Swig owns a home, an inn, a restaurant and other property.

Ethical Requirements, Board Members on the Board of Appeals

As part of the criteria to serve on the Board of Appeals in San Francisco, Mr. Swig agreed to attend bi-annual Ethics Training Classes provided by the San Francisco Office of the City Attorney, and to sign a Certificate of Ethics Training for each such class, pursuant to California Government Code section 53235 (AB 1234). Mr. Swig also agreed to attend bi-annual classes concerning the City's Sunshine Ordinance, classes that also are sponsored by the City Attorney's Office. Finally, as required by the state's Fair Political Practices Commission, pursuant to the Political Reform Act of 1974 (Government Code § 87100 et seq.), Mr. Swig agreed to submit an annual report showing the sources of his income and the ownership of real property, the so-called "SEI Form 700," a Statement of Economic Interests.

The SEI Form requires that properties and business interests owned by Mr. Swig in San Francisco be reported. However, it seems that the SEI does not require that Mr. Swig report his properties and business interests in Napa Valley.

With the sole exception of a form where certain sections of the SEI are redacted, each and every SEI 700 Form Mr. Swig submitted to the City Ethics Commission includes his reference to 220 Montgomery Street (a.k.a. "the Mills Building") and 235 Montgomery Street (a.k.a. "the Russ Building"). These properties are listed in Mr. Swig's SEI reports at the top of a list entitled, "Additional Sources of Income of \$10,000 or more for Swig Investment Company."

Typically, this list is the final page of each SEI report filed by Mr. Swig.

220 Montgomery Street-- the building where Mr. de St. Phalle has his law office as a named partner in the firm of Rains, Lucia, Stern, de St. Phalle and Silver-- is also listed separately, a second time, in each of the SEI Reports submitted by Mr. Swig. In the case of 220 Montgomery, Mr. Swig also lists it under "Schedule B, Interests in Real Property." Under the category "Nature of Interest?" Mr. Swig notes in each of his SEI reports that he has an "Ownership/ Deed of Trust" in 220 Montgomery.

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Typically, this reference to a "Ownership/Deed of Trust" at 220 Montgomery is listed on page 4 of the Report, as it is in the 2016 Swig SEI Report. (Attached)

"Swig Investment Company" versus "Swig Company, LLC"

"Swig Company, LLC" is never mentioned in Board Member Swig's seven SEI 700 Forms. However, the following companies are mentioned by him as either owned by Mr. Swig, or, when not owned by him, contributing at least \$10,000 annually to his income. The companies listed by Mr. Swig are:

Swig Investment Company
Richard L. Swig Trust
RSMC Investment Company
RSBA Associates
Article 3 Advisors
Not a Bad View, LLC

Although "Swig Company, LLC" is not mentioned in the Swig SEI reports, it seems that what Mr. Swig might mean by "Swig Investment Company" (the first company in this list) is "Swig Company, LLC." Mr. Swig states in his SEI reports that he owns 220 Montgomery as part of "Swig Investment Company." But the actual owner listed at the City Assessor-Recorder Office is "Swig Company, LLC." It is not impossible to conclude these are one in the same company, or, perhaps, co-partners.

Whatever financial instrument or corporate structure Mr. Swig uses as a form of ownership or "interest in," the properties at 220 and 235 Montgomery provide legally significant income to him, for purposes of this ethics complaint. State Ethics Code (Form 700) requires that income from property \$10,000 or more must be reported, and Mr. Swig has reported each of these properties on all seven reports.

Regular Duties of the Board Members who sit on the Board of Appeals

As part of his duties on the San Francisco Board of Appeals, Mr. Swig is expected to consider appeals and related procedural matters that come before the Board, read materials presented by parties to those appeals, listen to in-person presentations made by those parties and their representatives, ask questions of parties to the appeals, participate in discussions with other Board members, and decide based on the official record a correct course of action in accordance with the law. When called upon by a duly made motion, Swig votes on these appeals and related procedural matters.

The majority of appeals that come before the Board concern building permits.

The History of Appeal 17-088 before the Board of Appeals

Mr. Eustache de St. Phalle, an attorney, filed an appeal to the Board of Appeals on or about June 7, 2017. (Appeal 17-088) On or about this day, Dudley de St. Phalle, Mr.

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de St. Phalle's wife, filed a seven-page brief to the Board asking it to overturn a decision made by the San Francisco Planning Department that a proposed garage at 20 Nobles Alley, a building owned by the de St. Phalles, be "disapproved." The de St. Phalle's appeal was scheduled to be heard July 12, 2017 in San Francisco City Hall, Room 466, at which time and place Mr. de St. Phalle and his wife, Dudley de St. Phalle, appeared before the Board.

The first line of the brief presented by Ms. Dudley de St. Phalle referenced Mr. de St. Phalle's co-ownership of the property; to wit, "My husband, Eustache de St. Phalle, and I bought the building at 20 Nobles Alley last summer."

At the meeting of the Board of Appeals on July 12, 2017, the following parties made presentations: Zoning Administrator Scott Sanchez, Planning Department; Bernie Curran, Department of Building Inspection; Dudley de St. Phalle; Patrick Buscovich, (representing appellants); Mr. Marc Bruno, a resident neighbor (and author of this complaint) and Mr. Brent McDonald, a resident neighbor and architect.

Mr. Sanchez, Mr. Curran, Mr. Bruno and Mr. McDonald spoke in favor of the Planning Department's "Notice to Disapprove." Appellant de St. Phalles and Mr. Buscovich spoke in opposition to the Planning Department disapproval.

de St. Phalle's appeal was discussed and voted on by Mr. Swig and other members of the Board of Appeals on July 12. The Board voted unanimously to continue the matter until September 13, 2017, because it was made known during deliberations that contrary to Board Rules and Regulations no building plans had been submitted to the Board. (*San Francisco Business and Taxation Code*, Article 1 §§ 8, 10 - Method of Appeal to the Board of Appeals, "Record Forwarded.")

The Board directed Mr. de St. Phalle to return with these plans. On or about August 22, 2017, de St. Phalle submitted the requested plans to the Board of Appeals.

At the continuance of September 13, 2017, the following parties presented before the Board of Appeals: Scott Sanchez, Planning Department; Joseph Duffy, D.B.I., Eustache and Dudley de St. Phalle, appellants; Marc Bruno, a resident neighbor; Paul Lau, a resident neighbor; Kathleen Dooley, a resident neighbor; Brent McDonald, a resident neighbor and architect; Albert Yee, former owner of 20 Nobles Alley.

The four neighbors and former owner who appeared on September 13 testified in support of the Planning Department's disapproval of the garage/s. When questioned by the Board about the project, Zoning Administrator Scott Sanchez re-confirmed the Planning Department's disapproval:

"When the building with the garage doors was researched, 20 Nobles, there were no permits in the 1990s to do that. A garage existed-- magically appearing, it seems-- on a drawing in 1999 for an unrelated project. But there never was a permit that added one or more garage to the subject property, and that's where we are today. That we

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maintain that the garages are not legally existing. Neither one was ever legally existing on the property, and under the planning code today they cannot add one at this point. I think that's all I have to say. "

In addition to the in-person testimony at the hearing September 13, 2017, the Board received 16 letters of opposition and not one letter in favor of the project. Other than the permit-holders (the de St. Phalles) nobody testified in favor of the project. Mr. Patrick Buscovich did not present at the continuance hearing on September 13, although he was in the room and consulted with the de St. Phalles.

During the deliberations prior to the vote, Board Member Swig took the lead in announcing that he was in favor of the project and wanted to give the de St. Phalle's-- who had just been told their time was up by the Board President, Darryl Honda-- more time to address the Board. At Mr. Swig's urging, the Board allowed the de St. Phalle's to re-address some of the issues raised at the hearing on September 13th. Many of these same issues were raised and addressed at the hearing on July 12.

After additional deliberations led by Mr. Swig, the Board moved to approve the project, a vote was taken and the final ballot was 4 in favor and one opposed. The sole opposing vote was by Board Member Ann Lazarus.

A copy of the Board's "Notice of Decision" on Appeal 17-088 is attached.

III. Discussion

"Section 3.214 of the Campaign and Governmental Conduct Code requires City officers and employees to disclose on the public record any personal, professional, or business relationship with any individual who is the subject of, or has an ownership or financial interest in, the subject of a governmental decision being made by the officer or employee. This disclosure requirement applies only if, as a result of the relationship, the public could reasonably question the ability of the officer or employee to act for the benefit of the public. Disclosure on the public record means inclusion in the minutes of a public meeting, or if the decision is not made at a public meeting, recorded in a memorandum kept on file at the offices of the City officer or employee's department, board, or commission."

Good Government Guide, An Overview of the Laws Governing the Conduct of Public Officials (September 3, 2014 update)

Mr. Swig's failure to disclose and recuse himself in this matter concerning Eustache de St. Phalle is a violation of Section 3.214 of the San Francisco Campaign and Governmental Conduct Code.

Mr. Swig also has a business relationship with Patrick Buscovich & Associates and was thereby required to disclose that relationship in the Minutes of the Board of Appeals-- something he never did-- and, recuse himself from voting on any matter that might benefit Mr. Buscovich, something Mr. Swig never did.

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Mr. Swig's failure to disclose and recuse himself in this matter, as it might benefit Patrick Buscovich, is also a violation of Section 3.214. It should be noted that Mr. Buscovich, the principle partner in this firm, is also a member of the San Francisco Board of Examiners.

By failing to disclose and recuse himself, Board Member Swig denied Complainant and other members of the public their constitutional right to have their testimony weighed and considered unimpeded by prejudice and subterfuge. The deprivation of this constitutional right is a violation of the 14th Amendment and 42 U.S.C. § 1983, the "Deprivation of Rights and Immunities Clause" of the U.S. Code.

In addition to violating Section 3.214 of the San Francisco Campaign and Governmental Conduct Code on at least two occasions, Mr. Swig's failure to disclose is also a violation of the Statement of Incompatible Activities for the San Francisco Board of Appeals, discussed below at Section IX.

Both meetings of the Board of Appeals were held in the City and County of San Francisco, in San Francisco City Hall, Room 416.

* * *

Sections IV, V, VI, VII and VIII include Attachments, as labeled. They are all found at the back of this report.

- IV. Documentary Evidence of Ownership of 220 Montgomery Street ("Mills Building") by Richard Swig, Board Member, San Francisco Board of Appeals**
- V. Documentary Evidence of Ownership of 235 Montgomery Street ("Russ Building") by Richard Swig, Board Member, San Francisco Board of Appeals**
- VI. Documentary Evidence of Tenancy at 220 Montgomery Street by Eustache de St. Phalle, Party to Appeal No. 17-088, San Francisco Board of Appeals**
- VII. Documentary Evidence of Tenancy at 235 Montgomery Street by Patrick Buscovich, Member of the Board of Examiners and Expediter, Eustache de St. Phalle, before San Francisco Board of Appeals**
- VIII. Documentary Evidence of Professional Services provided to 235 Montgomery by Patrick Buscovich, Representative of Eustache de St. Phalle before San Francisco Board of Appeals**

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**IX. Activities by Mr. Swig are also in conflict with the Board of Appeals
Statement of Incompatible Activities**

By not disclosing his business relationships with de St. Phalle and Buscovich, Board Member Swig also has violated **Section III. A. (3.)(b.)** of the Board of Appeals Statement of Incompatible Activities, because as a landlord to de St. Phalle and Buscovich, Swig "provides services in exchange for compensation."

"(3.)(b.) No officer or employee may be employed by, or provide services in exchange for compensation or anything of value from an individual or entity that presently has an application or matter under review before the Department or has had an application or matter under review before the Department in the preceding 12 months. This prohibition does not apply to employment of or compensation received by an officer's or employee's spouse or registered domestic partner."

[III. Restrictions on Incompatible Activities; A. Restrictions that Apply to all Officers and Employees; (3.) Activities that are Subject to Review by the Department; (b.), at San Francisco Board of Appeals Statement of Incompatible Activities, p. 3]

Advanced Written Determination, a Method to Avoid Possible Conflicts

Mr. Swig is forewarned in the Statement of Incompatible Activities that he and his fellow Board members are encouraged to seek advice from provided counsel at the Ethics Commission and other City agencies and departments should he *even suspect that his actions on the Board of Appeals might result in a conflict of interest.*

Common sense and a commitment to fair play dictate that anyone on the Board of Appeals, a quasi-judicial body, would go the extra mile to adhere to the City's Ethics Code, and the Statement of Incompatible Activities invites Board Members to do just that. Five sources of advice or determination are expressly offered and encouraged by the Statement, and examples are given on how a Board Member ("officer" in the Statement) might ask for such written advice from:

- (1) the Department, by which is meant the Board of Appeals staff;
- (2) the San Francisco Ethics Commission;
- (3) the San Francisco City Attorney;
- (4) the San Francisco District Attorney;
- (5) Any combination thereof.

The Statement of Incompatible Activities is specifically written with Board Members in mind, and I believe that "proposed activities" includes the activities of *Voting as a Board Member* and *Participating in deliberations as a Board Member*, to wit:

"C. ADVANCE WRITTEN DETERMINATION

Marc Bruno to San Francisco Ethics Commission
September 29, 2017

As set forth below, an employee of the Department or the director or a member of the Board of Appeals may seek an advance written determination whether a proposed outside activity conflicts with the mission of the Department, imposes excessive time demands, is subject to review by the Department, or is otherwise incompatible and therefore prohibited by section III of this Statement. For the purposes of this section, an employee or other person seeking an advance written determination shall be called "the requestor"; the individual or entity that provides an advance written determination shall be called "the decision-maker."

1. PURPOSE

This subsection permits an officer or employee to seek an advance written determination regarding his or her obligations under subsections A or B of this section. A written determination by the decision-maker that an activity is not incompatible under subsection A or B provides the requestor immunity from any subsequent enforcement action for a violation of this Statement if the material facts are as presented in the requestor's written submission. A written determination cannot exempt the requestor from any applicable law.

If an individual has not requested an advance written determination under subsection C as to whether an activity is incompatible with this Statement, and the individual engages in that activity, the individual will not be immune from any subsequent enforcement action brought pursuant to this Statement.

Similarly, if an individual has requested an advance written determination under subsection C as to whether an activity is incompatible with this Statement, and the individual engages in that activity, the individual will not be immune from any subsequent enforcement action brought pursuant to this Statement if:

- (a) the requestor is an *employee* who has not received a determination under subsection C from the decision-maker, and 20 working days have not yet elapsed since the request was made; or
- (b) the requestor is an *officer* who has not received a determination under subsection C from the decision-maker; or
- (c) the requestor has received a determination under subsection C that an activity is incompatible.

In addition to the advance written determination process set forth below, the San Francisco Charter also permits any person to seek a written opinion from the Ethics Commission with respect to that person's duties under provisions of the Charter or any City ordinance relating to conflicts of interest and governmental ethics. Any person who acts in good faith on an opinion issued by the Commission and concurred in by the City Attorney and District Attorney is immune from criminal or civil penalties for so acting, provided that the material facts are as stated in the

Marc Bruno to San Francisco Ethics Commission
September 29, 2017

opinion request. Nothing in this subsection precludes a person from requesting a written opinion from the Ethics Commission regarding that person's duties under this Statement."

[III. Restrictions on Incompatible Activities; C. Advanced Written Determination, at San Francisco Board of Appeals Statement of Incompatible Activities, p. 4- 5.]

X. Conclusion

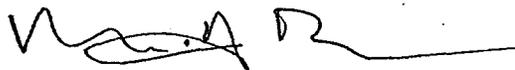
Ownership and tenancies of the above-referenced properties at 220 Montgomery and 235 Montgomery, as well as the payment of rents by the de St. Phalle Law Firm to Mr. Swig for its tenancy at 220 Montgomery, as well as the professional services provided by Mr. Patrick Buscovich at 235 Montgomery, where Mr. Buscovich has been a tenant since 1998, prove that Board Member Swig has had and still has a business relationship with these two parties, each of whom appeared on behalf of Appeal 17-088 before the Board of Appeals July 12, 2017 and September 13, 2017.

Given these business relationships, Board Member Swig was obligated as a matter of law, common sense and fair play to disclose his connections to these two men and to recuse himself from voting on any matter that might benefit them.

His failure to do so is a violation of Section 3.214 et. seq. of the City's Campaign and Governmental Conduct Code, the Board of Appeals Statement of Incompatible Activities and of the 14th Amendment of the U.S. Constitution, and of 42 USC §1983.

The votes taken on Appeal 17-088 on July 12, 2017 and September 13, 2017 at the meetings of the San Francisco Board of Appeals must be reversed, and the matters considered by the Board under the auspices of Appeal 17-088 must be remanded to administrative bodies for reconsideration and review. Mr. Richard Swig must be enjoined from voting on Appeal 17-088 or participating in any deliberations concerning it.

On information and belief all matters described by me herewith are true and correct. Signed,



Marc Bruno
15 Nobles Alley
San Francisco, California

Date: *Sept. 29, 2017*





ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

PETER KEANE
CHAIRPERSON

DATE: October 5, 2017

DAINA CHIU
VICE-CHAIRPERSON

NAME: Marc Bruno

PAULA. RENNE
COMMISSIONER

ADDRESS: marcabruno@yahoo.com

QUENTIN L. KOPP
COMMISSIONER

Re: **Ethics Complaint No. 1718-026**

YVONNE LEE
COMMISSIONER

Dear Mr. Bruno:

LEEANN PELHAM
EXECUTIVE DIRECTOR

Thank you for filing a complaint with the Ethics Commission on **September 29, 2017**. The Commission has assigned the tracking number referenced above to your complaint.

Commission Staff will now conduct a preliminary review of your complaint to determine whether it alleges sufficient facts of specific violations of law to warrant a full investigation. The Ethics Commission has jurisdiction over violations of City law relating to campaign finance, lobbying, conflicts of interest, or governmental ethics. We will review the allegations and evidence you provided and determine if there is reason to believe that a violation of these laws may have occurred. Once this determination is made, you will be notified.

If the Commission needs additional information from you regarding this matter, a member of the enforcement staff will contact you. If you have any questions, please call (415) 252-3100.

Sincerely,

/s Jessica L. Blome
Jessica L. Blome
Deputy Director
Enforcement & Legal Affairs

II . Neighbors Letters in Opposition, 20 Nobles Alley



November 13th, 2017

Dear President Breed,

The NBBA would like to add their support of the appeal of a categorical exemption of a new garage at 20 Nobles Alley until there is further review of the project by the Planning Department.

We would like to point that there are safety and transportation issues - all of them impacted by the addition of a garage in such a narrow alley. Over the years, our merchants have observed the constant congestion on the 1500 block of Grant Avenue where it intersects Nobles Alley. As the location where vehicles regularly double-park, forcing pedestrians out onto the roadway, the idea of adding yet more congestion and use to this tiny alley is unacceptable and dangerous.

For these reasons, we believe that 20 Nobles deserves further scrutiny and that the appeal should be granted.

Warmest Regards,

Signed electronically by Fady Zoubi

Fady Zoubi

President

North Beach Business Association.

Russian Hill Community Association

1166 Green St. San Francisco, CA 94109 510-928-8243 rhcasf.com

November 13, 2017

President London Breed and Members of the
Board of Supervisors of the City and County
of San Francisco
City Hall, Room 400
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Item 29 on November 14, 2017 Agenda - File 171-053 – 20 Nobles Alley

Dear President Breed and Members of the Board of Supervisors:

The Russian Hill Community Association strongly urges you to support the appeal of the Categorical Exemption for 20 Nobles Alley.

The citizens of San Francisco are mis-served by the Planning process when despite the fact that the project sponsors are cited by the City for illegal use of their property for short term rentals and the words “unpermitted”, “illegal” and “no record of permit” appear in the serial permits on file ... the project sponsor is still “rewarded” with a Categorical Exemption.

The Planning process is failing the citizens of San Francisco when reference is made to the prior history of garages on site without noting, as Enforcement Planner Chaska Berger states in her notes regarding 2016-010100ENF opened on August 3, 2016, that “...two garages [were] built in late 1990’s w/o permits...owner now attempts under P.A. #201607253205 to remedy unpermitted garage, **this Alley is 11’wide and cannot accommodate a garage.**” [emphasis provided].

The process of legalizing work done without a permit or beyond the scope of work permitted is becoming endemic in the City. Paying a penalty is a small price for many project sponsors to pay when the illegal action can be easily legalized resulting in increased profits.

This case epitomizes many of the flaws in the Planning process that citizens and their neighborhood organizations are identifying. The fact that the Board of Appeals overturned the original Planning Department denial of this Categorical Exemption is a reality. But that does not make that decision correct and cries out for the Board of Supervisors to provide a remedy.

We urge you to overturn the Categorical Exemption and support the appeal for 20 Nobles Alley.

Thank you for your consideration.

Jamie Cherry
RHCA Board Member
jcherry@rhcasf.com

cc: Jeff Cheney RHCA,

Chinatown Community Development Center
525 Grant Avenue
San Francisco California 94133
Tel: (415) 984-1450
Fax: (415) 929-1499
TTY: (415) 984-9910

November 11 2017

Dear Supervisors -

Chinatown Community Development Center urges you to overturn the Categorical Exemption granted to the 20 Nobles Alley by supporting the appeal in front of you. In the alternative, we urge you to vote for a continuance until after the Board of Appeals can re-hear this matter.

In 2010, Chinatown CDC worked with Supervisor David Chiu to enact Planning Code section 249.9. PC 249.9 prohibits any property owner in the North Beach/Russian Hill/Polk Gulch area who has filed an Ellis Act from adding a garage. The underlying purpose was to disincentivize real estate speculation by taking away another tool to increase the value of their unit, after the speculator acted badly. At that time, a significant percentage of Ellis Act's in the District were followed by garage additions.

The project sponsor at 20 Nobles Alley is now trying to violate the spirit of PC 249.9. First and foremost, the project sponsor has violated the City's short term rental rules, as determined by the Office of Short Term Rental. Second, the underlying garages at issue here were installed illegally -- there were no permits issued at the time of installation. The City should not provide the project sponsor the privilege of legalization after these bad acts.

If the Categorical Exemption before you is granted, the project sponsor will be able to move forward with the legalization of their surreptitiously installed garages that never received a City review until August of last year. On the other hand, if you grant the appeal, thereby denying the CE or grant a continuance of this matter, this will allow the Board of Appeals to reconsider their decision legalizing these garages. As we understand it, one of the BOA members who voted has a business relationship with the project sponsor, thereby creating a conflict and necessitating a re-vote.

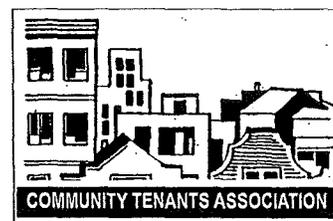
Bottom line. Real estate speculators who game the system for personal profit at the expense of the City should not be rewarded.

I will be out of the Country from November 12 to November 18. **If you have questions about our position, please contact Roy Chan at rchan@chinatowncdc.org or 415-984-1477.**

Sincerely,

Malcolm Yeung | Deputy Director
Chinatown Community Development Center
myeung@chinatowncdc.org | 415-742-1654
<https://www.chinatowncdc.org>

社區住客聯會



November 13, 2017

Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA

Re: 20 Nobles Alley

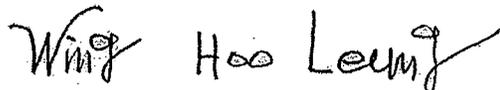
Dear Supervisors:

On behalf of the Community Tenants Association, I urge you to overturn the Categorical Exemption granted to 20 Nobles Alley by supporting the appeal and voting for a continuance so that the Board of Appeals can revisit this matter.

In support of San Francisco tenants' rights which we have been doing for 30 years, we want to call out real estate speculators who behave badly to increase the value of their units. The project sponsor at 20 Nobles Alley is trying to violate the spirit of Planning Code section 249.49. This code was enacted in 2010 to prohibit any property owner in the North Beach/Russian Hill/Polk Gulch area who has filed an Ellis Act from adding a garage. We have witnessed a pattern in the area where Ellis Acts in the District were followed by garage additions.

Adding private garages detracts from the urban fabric and compromises pedestrian safety in the dense neighborhoods that many seniors and families live. From our understanding, the owner installed the garages in question illegally with no permits issued at the time. The owner should not be rewarded for doing this. Please grant the appeal and deny the Categorical Exemption. This will allow the Board of Appeals to reconsider their decision rather than legalizing these garages. Real estate speculators who act irresponsibly for personal profit at the expense of the City and San Francisco tenants should not be rewarded.

Sincerely,
Mr. Leung
President
Community Tenants Association



1525 Grant Avenue
San Francisco, CA 94133-3323
Phone: (415) 984-1460
Fax: (415) 984-2724

Cynthia G. Goldstein, Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103
<cynthia.goldstein@sfgov.org>
<gary.cantara@sfgov.org>
<scott.sanchez@sfgov.org>

September 4, 2017

Dear Sir / Madam:

I have owned a shop next door to the intersection of Nobles and Grant for 23 years. As a retailer, resident, and, above all, a person who loves this City, I passionately support Planning Department's decision to disapprove the placement of a new garage at 20 Nobles Alley.

I understand people want garages for their cars. The problem is, this is not an automatic right when you live in a City. And Nobles is not the right place to have a new garage. The garages that are there now at 20 Nobles Alley have proven unsafe. That's the reason they never were used.

The owners of the property-- they bought it only one year ago, in August, 2016-- have been cited for Short Term Rental Violations. How can an intelligent property owner (or, just a *responsible* one) *not* know that San Francisco is for very good reason sensitive to illegal short term rentals?

Many people have lost their apartments because of those rentals, and I find it remarkable that the City's Board of Appeals would ever go out of its way to allow such people to avoid planning rules in order to help themselves to a garage. Actions such as these, were you to allow a garage at 20 Nobles, lead common people to believe the city's review boards are favorable to some people and not others.

Given the new owners blatantly avoided registering their short term rentals for three months, and given they advertised 20 Nobles as a short rental for the whole year, it is impossible to believe they ever intended to really live here.

William Haskell to San Francisco Board of Appeals
September 4, 2017

My business, *Aria*, has been at 1522 Grant for over two decades. I regularly use a storage unit and door just 60 feet away, on Nobles Alley. It is two doors down from 20 Nobles, and on the same side of the street. I am there everyday using that door, and I think I would have noticed the new so-called neighbors if they had ever really lived here.

Please consider what you are doing before you allow one more non-neighbor land investor to pull the wool over the eyes of the city's guardians. I know you are doing your best to determine what is fair, but please remember that others, the ones who wrote the planning code, also consider what is fair before making their policies. To allow the owners at 20 Nobles to circumvent that policy for the sake of a garage in is just plain wrong.

William Haskell
1522 Grant Avenue
San Francisco, CA 94133

110 210117

BOARD OF APPEALS
SEP 05 2017
APPEAL # 17-088 *288*

Cynthia G. Goldstein, Executive Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103
<cynthia.goldstein@sfgov.org>, <gary.cantara@sfgov.org>,
<eiliesh.tuffy@sfgov.org>

September 3, 2017

Dear Appeals Board Member:

I write as a longtime resident of North Beach and as a native San Franciscan who grew up primarily in this neighborhood. This is an area of the city dear to me, both because I am a resident and because of the unique contribution the neighborhood's buildings and people have made to San Francisco.

As a property owner in the neighborhood, I am sympathetic to the need for parking. Nevertheless, I strongly support the Planning Department decision to deny the installation of a new garage at 20 Nobles. The reason is simple: Without a Planning Code and without a common commitment to it, the city will become every man and woman for themselves, and the loving City by the Bay will become one more metropolitan dystopia.

It seems to me our planning code consists of three elements: public policy, safety considerations and history. On all three grounds, I do not think it proper to allow a garage at 20 Nobles.

On historical grounds, and after considerable use of public resources, the Planning and Building Departments, along with the Bureau of Street Use and Mapping, determined the garages currently at 20 Nobles are not legal. There is no evidence of an application, a job card or a permit for a garage.

With regard to safety, alleyways with garages make it difficult to use the sidewalks. I am a pedestrian and public transit user. If and when we allow private parties to install garages in alleys, the permit history should be free of the legal issues we find at 20 Nobles. To repeat what was stated by Planning, "the creation of a ground floor garage was not part of the approved project scope for that permit or any other permit on file with the Department of Building Inspection."

Lastly, our planning code is a reflection of public policy. I am a property manager, a property owner and a long-time volunteer at a program for those who have no property at all-- the homeless. Although the issue at 20 Nobles seems to be only about a garage, it also concerns the homeless.

The Property Information Map for 20 Nobles, Block 0104 / Lot 025, indicates that the very people asking for an exception to be made in the planning code so that they may build a new garage were cited in March of this year for using the building illegally and without registration for short-term rentals. They were advertising the property not merely for the two months when people rented, but until nearly the end of the year. The only thing that stopped them, it seems, is that their plans were uncovered by the City.

Almost none of the people where I volunteer were born homeless. They were forced onto the street because of family dysfunction, health breakdowns, loss of employment and/or (and *most directly*) by simply getting evicted. It is well known that many of these evictions result from short-term rentals-- people misusing commercial buildings as hotels, just like the property owners at 20 Nobles. I know this site would be only one more, small, illegal hotel. But the cumulative effect of all these illegal usages is devastating for the poor. This is the reason I ask you to support the findings of the Planning Department and not allow the owners to avoid the rules of the Planning Code one more time.

Please do not hesitate to phone if I can be of further assistance to you,

Kelli Smith

Kelli Smith
415-846-3280
sfkelli@sbcglobal.net

FILE

BOARD OF APPEALS

AUG 23 2017

APPEAL # 17-088

988

Garage at 20 Nobles Alley, SF

My name is Louis Biro and I am a freelance artist, independent contractor and 29 year North Beach resident, who has lived a block away from the proposed garage at 20 Nobles Alley. I work and shop in the neighborhood, and walk past these garages almost every day.

I am against the new garage proposal because my understanding from the City's Notice of Denial is that the current garages are illegal, and any new garage proposal there would contradict a law passed by the Board of Supervisors protecting small alleys from garages.

Given that the existing garages were built illegally, I do not believe that the current owners should be allowed to build a new garage now, because that would reward the property for breaking the law in the first place.

These issues were known at the time of purchase, and it would be unfair and contradictory.

I also feel that the placement of any new garage would have a negative impact on the rest of us that live in the district. This is a pedestrian section of the neighborhood and there are no other working garages in this area.

I am not against the new owners wanting to increase the value of their property.

If there were any new construction to be done on this site, I would like to see them obtain legal permits, if possible, and create an additional unit for more housing in the area.

As a long term resident I have watched the decrease of curb and sidewalk space over the years as many legal construction projects have occurred. I don't believe that one more, albeit illegal, project improves the neighborhood in any way.

Louis Biro

FILE

BOARD OF APPEALS

AUG 23 2017

APPEAL # 17-088 *CSH*

STATEMENT of PAUL LAU (read by Angela Chu)

My name is Paul Lau and I have lived in Nobles Alley for almost 25 years.

I have worked as a bus boy and in other capacities at restaurants throughout the City.

Because I often come home from work late at night, it is often the case that I sleep until late in the morning.

For this reason, and because I am concerned about the safety and welfare of those who live right next to the proposed garage door, I am asking each of you to not approve this garage.

Thank you for the time to let me address you, and please know that I appreciate all the work you do for the City.

FILE

17-088

BOARD OF APPEALS

Mejia, Xiomara (BOA)

SEP 07 2017

APPEAL # 17-088 98

From: Albert Yee <jeldoi@sbcglobal.net>
Sent: Thursday, September 07, 2017 7:24 PM
To: Goldstein, Cynthia (BOA); BoardofAppeals (PAB)
Subject: Support of Planning Department Disapproval of Garages, 20 Nobles, Appeal #17-088
Attachments: Image.jpg; Image (2).jpg; Image (4).jpg; Image (5).jpg; Image (6).jpg; Image (7).jpg; Image (8).jpg; Image (9).jpg; Image (10).jpg

Hello,

Please include my attached testimony and exhibits as part of the official record for the meeting on 09/13/17, Appeal #17-088.

Thank you.

Albert Yee
jeldoi@sbcglobal.net
510 862 4232

FILE

BOARD OF APPEALS

AUG 23 2017

APPEAL # 17-088

Statement of Albert Yee, August 2, 2017

My name is Albert Yee. I appeared here two weeks ago to address a proposed garage at 20 Nobles. I am here today to clarify my position and give you several documents you do not have.

The Yee family owned 20 Nobles for almost 40 years. My parents purchased it in 1958, and, following the death of my parents, my brothers and I sold the property in June, 1997.

During the entire time we owned the property, we never installed a garage. On the contrary, we made almost no additions to the property except to envelope the original wooden structure in stucco.

I lived at 20 Nobles until I left for college. I attended University of California at Berkeley, and I received a degree in engineering. From then until my retirement, I worked in the United States as Senior Principal Engineer for a consulting engineering company.

Based on my experience as an engineer, and based on my experience at 20 Nobles, I can tell you that no garage should have been placed there without proper permits. To do so without specs, without drawings, without any calculations for soft story framing is an indication that someone made a major structural change outside the parameters of the law.

I feel it is unfair to suggest the garages were ever there when my family sold the house, as if we placed them there illegally. We didn't.

Here is a photo of the house when we sold it. Here is a photo of the house when we bought it 40 years earlier. The earlier photo is from the Recorder-Assessor's Office.

You can see that the apertures at the front of the house are identical. You also can see that except for the stucco envelope, the house is historically preserved. When my family added the stucco envelope, we did it properly. We got a permit.

I do not believe the new owners-- who, I'm told, were informed by the City about this problem before they bought the house -- should be allowed to place a new garage there, based on the illegally built garages. This would only invite more people to circumvent the planning and building codes all of us are asked to obey as property owners.

Thank you for your time, and thank you for allowing me to clarify the permitting history at 20 Nobles Alley.

[Exactly 2:10 Minutes, with the moving of the photos under the audiovisual aid.]

20 Nobles Alley San Francisco CA Apartment House Declaration

August 2, 2017

I, Albert J. Yee, as one of the four former owners of the apartment house at 20 Nobles Alley (include units 18, 18A, 20, and 20A), San Francisco, CA, declare under oath that the apartment house NEVER had car garages as of the date of sale on June 18, 1997.

The 20 Nobles Alley apartment house had two (2) separate basement/storage rooms at street level, each entered by separate regular 30"x76" doorways and separated by an inside brick wall, plus a main entryway into the house, on the date of sale of June 18, 1997.

See attached house pictures.

Sworn by:

Albert J. Yee

Date:

August 2, 2017

At:

Wells Fargo Bank

468 Columbus Ave

San Francisco, CA 94133

4110114

FILE

BOARD OF APPEALS

SEP 05 2017

egx

APPEAL # 17-088

Kathleen Dooley
216 Filbert St
San Francisco, CA
94133

September 2, 2017

To : Cynthia Goldstein and the San Francisco Board of Appeals,

Ms Goldstein and fellow Commissioners,

As a longtime merchant and resident of North Beach, I am writing in support of the Planning Department's disapproval of permit 2016.08.09.4528 at 20 Nobles Alley. For over 20 years, I ran a business, Columbine Design, which was located on the 1500 block of Grant Avenue, the block that tiny Nobles Alley is located adjacent to. Because of the width of this alley—a mere 11' (and far less than the 41' required for the adding garages in our special use district), it is unconscionable to even consider invalidating the Planning Department's conclusions regarding this permit.

As a shopkeeper on this block, I had a daily view of Nobles Alley and observed that this alley is really only suitable for pedestrian use. I also viewed on a daily basis how drivers doublepark in the alley while running errands, constantly blocking Nobles where it intersects Grant Avenue, impeding pedestrian traffic. The addition of garages on Nobles would only add to the confusion and congestion at this intersection and would have a detrimental effect on the character of the alleyway. Of all the alleys in North Beach, Nobles is one of the few that has by good luck and deliberate choices maintained the unique character of our historic neighborhood, something which all of us constantly work to maintain.

Since the City has adopted a Transit First policy endorsing the reduction of cars in congested parts of town such as North Beach, it also makes sense to support the Planning Department's decision to not add a garage at 20 Nobles Alley. That is especially true because Planning, Building and the Bureau of Streets Use and Mapping have all made written determinations that the current two car garages there are illegal.

As a founder and former president of the North Beach Business Association, I have seen a number of bad actors, both commercial and residential, locate in our commercial district, and these are often the same people who justify breaking the provisions of the Planning Code as if those rules should apply to everyone but them. This is just wrong— and something I can never support. In this case, it is my understanding that the current owners had the information regarding the illegality of the garages on the premises before purchasing said property and have, therefore, no basis for even applying for a permit to "legalize" the situation.

It has also come to my attention that, for a number of months, this home has been rented out as an unregistered short term rental—from January to March so far of this year— in direct violation of City laws pertaining to short term rentals. Since the owners maintain other properties as primary residences, it seems logical that they may choose to continue to illegally continue to rent out the building. With the extreme shortage of housing in our neighborhoods, and the many evictions of longtime residents (evictions that are very detrimental to the dynamic fabric of North Beach), the last thing the City should support are owners who so willingly take a home out of circulation to be used as an ersatz hotel. This type of behavior must not be rewarded.

Once again, I strongly believe it is the Board's obligation to uphold the Planning Department's disapproval of legitimizing these illegal structures and deny the permit application to build a new garage in Nobles Alley.

Kathleen Dooley

FILE

Mejia, Xiomara (BOA)

From: Cantara, Gary (BOA)
Sent: Tuesday, September 05, 2017 7:41 AM
To: Mejia, Xiomara (BOA)
Subject: FW: SUPPORT: Notice of Planning Department Disapproval, 20 Nobles Alley, #

SEP 05 2017
17-088

Public Comment below, for Appeal No. 17-088.

*Gary Cantara, Legal Assistant
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103
(415) 575-6882 direct line
(415) 575-6880 main line*

From: Howard [mailto:wongaia@aim.com]
Sent: Saturday, September 02, 2017 4:39 AM
To: Goldstein, Cynthia (BOA) <cynthia.goldstein@sfgov.org>; Cantara, Gary (BOA) <gary.cantara@sfgov.org>; Sanchez, Scott (CPC) <scott.sanchez@sfgov.org>; Tuffy, Eiliesh (CPC) <eiliesh.tuffy@sfgov.org>
Subject: SUPPORT: Notice of Planning Department Disapproval, 20 Nobles Alley, #

TO: BOARD OF APPEALS
c/o Cynthia Goldstein, Scott Sanchez, Gary Cantara and Eiliesh Tuffy
RE: Permit 201608094528, 20 Nobles Alley, New Garage Abatement Application
SUPPORT: SF Planning Department's "Notice of Planning Department Disapproval"

Dear Commissioners, Directors and Planning Staff;

As a nearby neighbor and architect, I support the determination of the San Francisco Planning Department and its "Notice of Planning Department Disapproval"---regarding an illegal garage opening on a narrow street under 41 feet in width--- within a designated historic district.

As a narrow dead-end alley with multiple residential entryways, Nobles Alley has unique constraints and potential liabilities. Cars may need to back up or back down the street---into Grant Avenue's busy pedestrian and traffic routes. With extremely tight turning radiuses, a garage would require multiple maneuvers that could easily hit adjacent buildings and infringe over pedestrian sidewalks.

Parenthetically, this property apparently has been used as a part-time rental, possibly illegally. Especially if visiting tourists use such a garage, the odds of an accident would increase---given their unfamiliarity with San Francisco's hilly terrain and narrow dead-end streets.

Regards,
Howard Wong, AIA

DENNIS HEARNE photographer

FILE

tel 415 989 5152

779 Vallejo Street in North Beach between Powell and Stockton
San Francisco, California 94133
email dennishearne@mac.com
www.dennishearne.com

Cynthia C. Goldstein
Executive director
San Francisco Board of Appeals
1650 Mission St, Suite 304
San Francisco, CA 94103

BOARD OF APPEALS

SEP 06 2017 *CS*

APPEAL # 17-088

Dear Cynthia C. Goldstein,

This Letter is sent in support of the "Notice of Planning Department Disapproval" regarding Permit 201608094528, 20 Nobles Alley New Garage application.

Besides the points made in the Disapproval Notice I also may note that the entire resident was illegally used for short term rentals from January through March of this year. The explosion of Ellis Acts and AirB&B rentals by investors only interested in profit should be further addressed by the City Government.

I vote that the Garage addition should not be supported.

thank you,,

Dennis Hearne



FILE

7/11/17

Mejia, Xiomara (BOA)

From: Daniel Macchiarini <danny1mac@sbcglobal.net>
Sent: Wednesday, September 06, 2017 10:33 PM
To: Goldstein, Cynthia (BOA); BoardofAppeals (PAB); Sanchez, Scott (CPC)
Cc: Marc Bruno; Aaron Peskin; Lee Block
Subject: No to 20 Nobles Alley Garage Reconstruction/Remodel **BOARD OF APPEALS**

SEP 07 2017 98

MACCHIARINI CREATIVE DESIGN APPEAL # 17-088

1544 Grant Ave.

San Francisco, Calif.

(415)982-2229

www.macchiarinicreations.com

Danny1Mac@sbcglobal.net

MODERNIST DESIGN SINCE 1948

September 6, 2017

Cynthia G. Goldstein, Executive Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103

Dear Appeal Board Members,

I write you to support the Planning Department decision to deny the installation of a new garage at 20 Nobles for three reasons. First, it is in clear violation of the city codes concerning this kind of construction which are well conceived based upon safety concern in accessing alleys by emergency vehicles which this kind of (de)construction will clearly obstruct. Secondly, construction vehicles will take parking on Grant Ave. for months to both remove debris and bring construction material up the alley to the worksite. These parking spaces will be taken on the street where my business operates further exacerbating the colossal parking problems in North Beach and hindering customer access to our small business commercial district and my business in particular.

Lastly, For over a decade and a half, North Beach has been the target of massive (de)construction projects both private and public, streetscape and inside privately owned buildings. WE NEED A BREAK!

Please oppose this project and ALL further projects of this kind which violate zoning ordinances, are disruptive to both neighbors and our commercial district.

Thank You,

Daniel Macchiarini

Macchiarini Creative Design

1544 Grant Ave. SF Ca 94133

Board Member North Beach Business Association

FILE

Cynthia G. Goldstein, Executive
Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103

Ronald F. Sauer
320 Clementina, Apt. 410
San Francisco, CA 94103

BOARD OF APPEALS

SEP 07 2017

APPEAL # 17-088

Former resident at 121 Varennes, SF CA 94133

Dear Board Member :

I was living for ten years with Roger Strobel, a native of N. Beach, at 121 Varennes, and used the basement back-exit that opens on Nobles Alley, as often as not. Very pleasant, having a quiet dead-end space at one's toetips, like a little slice of Morocco, or the old city in Sevilla.

That kind of tranquility and emptiness is increasingly an endangered dimension here in our wonderful city, increasingly molested by money-flush arrivitises who half the time appear to want to profit from the city, rather than wanting to live here, or give here, or be here, often renting illegally to out-of-towners. Such people passing through are not to be begrudged wanting cozier digs than a sterile hotel, but they move mostly briefly and namelessly through our neighborhood and add little as they pass.

What they do inadvertently if not willfully is drive up the price of living here in San Francisco, a place that has been a haven for creativity, for artists, musicians, poets, small bookstores, and their glorious like, these mostly now an endangered species. And all that is changing with a mercurial toxicity.

When Roger and I noticed the garage machination at its inception, we thought it a dicey idea from the get. It didn't seem all that feasible. It looked doubtful at best. And then it turned out they did it without permits. I mean, what about the structural considerations? Who are these clowns? Where

do they get off putting their private lives before the Law and even genuinely esthetic concerns? The way it came off looking is a blight on the alley. Nobles Alley looked all of apiece before, and now that section looks an appendage of some god-forsaken industrial park, or something better suited to the suburbs.

I cannot speak for everyone living in the alley at the time, but I know that many of us would have spoken up-- and against the garages-- had we been given half a chance. Don't give credibility to the underhanded approach taken in the past. You cannot legitimize subterfuge.

Sincerely

Ronald F. Sauer

FILE

BOARD OF APPEALS

SEP 07 2017

APPEAL # 17-088

To: the Board of Appeals: <cynthia.goldstein@sfgov.org>
<boardofappeals@sfgov.org> <eiliesh.tuffy@sfgov.org>
Cc <aaron.peskin@earthlink.net> <lee.hepner@sfgov.org>

September 6, 2017

Dear Ms. Goldstein and Fellow Board Members:

My name is Gloria Zelman, and I was a tenant at 23 Nobles directly across the street from 20 Nobles from 1991 until July, 2009. During that time, two garages were built at 20 Nobles.

I do not recall exactly what year the garages were built. However, I would like to share with you this: During the 10 or 11 years I lived there after the garages were installed, neither one of them was ever used.

My work took me downtown every day. I would be gone from 12:00 Noon to 6:00 or 7:00 daily-- including, sometimes on Saturday. It seems to me that if those garages were being used by someone, I would have noticed this on at least one or two occasions. In fact, I never saw a single car pull in or out of either of those garages.

It seemed to me at the time that the two garages might have been installed as a consequence of poor planning.

As a longtime resident of North Beach -- I lived in the neighborhood for a total of 29 years-- I can attest to the fact that a garage (or garages) such as the ones placed at 20

Nobles are by nature unsafe. They would be a safety hazard.

Anyone living at 21, 23 or 25 Nobles (I was then living in Apartment 23, the middle floor of the three-story building) would be endangered entering or exiting the building. A car attempting to park in the garages at 20 Nobles would have to maneuver back and forth across the narrow sidewalk, blocking the entrance to the building.

Had I been given a chance to comment on the construction back in the late '90s, I am sure that I would have pointed out these unsafe conditions to City Planning. Later, there was no need to complain about the garages at 20 Nobles because they were simply not being used.

Sincerely,

Gloria Zelman
415-505-1947

FILE

Mejia, Xiomara (BOA)

From: Linda Federowicz <linda.federowicz@gmail.com>
Sent: Wednesday, September 06, 2017 12:28 PM
To: Goldstein, Cynthia (BOA)
Subject: 20 Nobles

BOARD OF APPEALS

SEP 07 2017

APPEAL # 17-088

0104/025
2016.08.09.04528

Dear Ms Goldstein and Members of the Board,

As a long-time resident of North Beach, since 1978, I have been able to experience all the drastic changes that have occurred in the neighborhood. Based on these experiences, I am strongly opposed to the imposition of a new garage at 20 Nobles Alley.

In fact, it is my understanding that the garages there now, were built illegally, which is one good reason not to allow another in the same location.

I believe that North Beach and unique character of our neighborhood is worth preserving. While on the one hand, it probably doesn't seem likely that a garage or two would destroy all that. The very opposite is the case. Let me tell you why.

Many people who have lived in our neighborhood for decades have been forced to give up their most treasured apartments because of short term rentals. Developers and investors are buying up our neighborhood not to live here, but to make windfalls of money on the units they buy. And this seems to be obviously what is happening at 20 Nobles, because the owners are never here and have already gotten in trouble with the city for illegal short term rentals.

Why should such dishonest owners that have no respect for the law or our neighbors in this area be rewarded by the City with a new garage?

The answer is, they shouldn't be.

Most important of all, I was living here in 1997 and 1998, the years that the two illegal garages were probably built. Had I been given a chance to protest these garages then-- instead of having it done behind the scenes, where nobody could comment or criticize-- I most definitely would have shown up and said, "This is not good for the neighborhood."

Every single apartment right now is so very very precious and so is each one of my precious neighbors. It would be wonderful if the people at 20 Nobles would create a new apartment instead of a new garage.

Thank you so very very much for your time.

Sincerely,
Linda Federowicz

FILE

To: San Francisco Board of Appeals
1650 Mission Street, Suite 304 San Francisco, CA 94103
<cynthia.goldstein@sfgov.org>
<boardofappeals@sfgov.org>

BOARD OF APPEALS

SEP 07 2017 *cbj*

APPEAL # 17-088

September 7, 2017

RE: San Francisco's Upper Grant Avenue, Appeal No. 17-088

Dear Commissioners:

I raise two points concerning the above referenced appeal, both of which strongly support the decision by the San Francisco Planning Department to properly disapprove the construction of a new garage at 20 Nobles Alley.

First, by stipulation I include my comments made at the Board Hearing of July 12, 2017 on this matter. You might recall that one of my primary concerns at that time was that the garages now existing at 20 Nobles seem never to have been permitted.

Nothing I have learned since then about this project convinces me otherwise. Indeed, the testimony at that hearing, which I now have had a chance to review, confirms that Planning and Building representatives familiar with the extensive research done on this permit history came to the same conclusion: the garages at 20 Nobles were never legal.

The practical effect of this is that the garages are likely to be structurally unsound, and included neither neighborhood participation nor City oversight in their design and construction.

This aspect of the permit *also* should be considered by the Board. If everything we did as architects, engineers and review boards was confined to paper, and never improved the daily lives of people in the real world, we would not be doing our jobs properly.

In the 20 years since the garages were built, not one of three owners who owned the building have ever applied for a curb cut, unsurprising,

as the owners themselves must have realized that the garages were unpermitted do to obvious tell-tale signs such as this.

Secondly, I would like to raise a fairness and process issue. It seems to me that if the Board of Appeals and the Planning Department relies on the eyes and ears of the neighborhood to call attention to such permit problems, as exist at 20 Nobles, then, City agencies should be forthcoming with record requests by interested neighbors.

In regards to 20 Nobles Alley, neighbors asked time and again for the plans attached to the current proposal, Permit 201608094528. They never were given plans until two days ago-- and these plans do not correspond to the permit submittal in question, they are a revision in response to issues since raised.

The permit is dated August 9, 2016; the plans are dated over one year later. Secondly, the permit describes the movement of a door to the center of the building, the plans do not. Third, the City's Permit Tracking records shows plans being submitted by the permit-holders on this project September 21, 2016; a revision being submitted to Planning on January 13, 2017 and a second revision (also given to Planning) on February 6, 2017. The plans recently provided to the nieghborhoos are dated 8/21/17

It is *these* plans, not the latest rendition, that were at issue at the hearing before the Board of Appeals on July 12. They have yet to be submitted to public scrutiny.

In this respect, the property owners today seem to me to be no more forthcoming than those in the 1990s who built the illegal garages in the first place. To change plans a fourth or fifth time outside of public view once again removes those most directly affected from the design process. I believe this is a serious error, unfair and inconsistent with our City's Building and Planning Codes.

Sincerely,

Brent McDonald
Architect C-24017

FILE

11-10-17

Mejia, Xiomara (BOA)

BOARD OF APPEALS

From: Catz Forsman <catzforsman@gmail.com>
Sent: Thursday, September 07, 2017 2:38 PM
To: Goldstein, Cynthia (BOA); BoardofAppeals (PAB); Sanchez, Scott (CPC); Tuffy, Elliesh (CPC)
Subject: Support for planning dept. disapproval of garages at 20 Nobles Alley (appeal # 17-088)

SEP 07 2017

APPEAL # 17-088

Dear Appeals Board Member:

My wife and I are long time North Beach residents. I lived at 15 Nobles Alley for many years before we were married. We are sympathetic for the need for parking in North Beach however we support the planning department decision to deny a new garage at 20 Nobles Alley.

This is a particularly narrow and confined alleyway with heavy pedestrian and vehicular traffic. To add a garage and the ensuing traffic that would result seems insane and particularly dangerous to pedestrians.

We understand also that the garage in question is not legal. There is no evidence of an application or a permit for a garage. It is also indicated that the people asking for an exception to be made in the planning code in order to build a new garage were cited in March 2017 for using the building illegally and without registration for short term rentals.

North Beach is special to us and we are protective of the area. We genuinely feel that an additional garage would diminish the safety and quality of life in this neighborhood for residents and visitors.

Sincerely,

Catz and Jean Forsman
934 Broadway
San Francisco, CA 94133

FILE

7110117

Mejia, Xiomara (BOA)

From: Anthony Gantner <afgantner@aol.com>
Sent: Thursday, September 07, 2017 12:52 PM
To: Goldstein, Cynthia (BOA); Sanchez, Scott (CPC); BoardofAppeals (PAB)
Subject: Support of Planning Disapproval of Garages, 20 Nobles; Appeal # 17-088.

September 7, 2017

Board Members and Commissioners
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103

BOARD OF APPEALS

SEP 07 2017

APPEAL # 17-088

Re: Support of Planning Disapproval of Garages, 20 Nobles; Appeal # 17-088.

Dear Board Members and Commissioners:

For several years in the 1970s, my grandmother, Dorothy Erskine, promoted an idea with residents, businesses and staff at the Planning Department that Grant Avenue in North Beach would thrive as a full or part-time pedestrian walkway. The idea simply was to close off four blocks of Grant to vehicular traffic, from Grant at Columbus on the south to Grant at Filbert Street on the north.

I remain convinced that Dorothy's vision is a viable alternative to the street we find today. If you look at our parks throughout the City-- and if you speak with senior members of S.P.UR.-- you will discover that Ms. Erskine was extremely prescient when it came to making the city inviting to everyone. She worked for over 50 years for a livable, sustainable and *walkable* City. A walkway on Grant, (from Columbus to Filbert, **with no garages**) would revitalize the merchant community, make the public right-of-way more family friendly and set an example to the world of our City's commitment to greening the urban environment.

Today, in our "zero garage environment" from Grant at Columbus to Grant at Filbert, Nobles Alley runs off the 1500 block of Grant. A garage there would make such a walkway impossible or greatly truncated. I hope the City will consider this when reviewing the possibility of a new garage at 20 Nobles Alley.

Given our city's strong commitment to car share, bicycles and Transit First— new garages are less necessary than ever, including one on Nobles Alley.

Thank you for your thoughtful consideration of this matter; please include the within email as part of the official record for your meeting on 9/13/17.

Anthony F. Gantner

FILE

no 7/10/17

Mejia, Xiomara (BOA)

From: Marc Bruno <marcabruno@yahoo.com>
Sent: Thursday, September 07, 2017 4:28 PM
To: Goldstein, Cynthia (BOA); BoardofAppeals (PAB); Longaway, Alec (BOA)
Cc: Marc Bruno
Subject: Support of Planning Department Notice of Disapproval, Appeal #17-088
Attachments: SF Chron #1 11.04.03.pdf; SF Chron #2 11.04.03.pdf; Screen Shot 2017-09-07 at 3.53.30 PM.png; Ltr- Omar Masry 07.17.17.docx

Board of Appeal Case # 17-088 (Building Permit Application 201608094528) 20 Nobles Alley

San Francisco Board of Appeals
 1650 Mission Street, Suite 304
 San Francisco, CA 94103
 <cynthia.goldstein@sfgov.org>
 <boardofappeals@sfgov.org>

BOARD OF APPEALS
 SEP 07 2017 *cas*
 APPEAL # 17-088

09 - 06 - 17

Dear Commissioners,

It was suggested at the hearing on this matter on July 12, 2017 that the Planning Department had already decided, or was about to decide, that the building and building site where the proposed garage would be placed has no historic value.

While I agree with the Department's Notice of Disapproval for the project, I disagree with what the Planning Department seems ready to conclude about the building's lack of historical value.

In subsequent discussions by phone with Ms. Eiliesh Tuffy, the planner on this project, I learned that the Department relies primarily on the 1982 North Beach Survey to come to the conclusion that 20 Nobles is a "non-contributor."

As I point out in one section of my comments on that 1982 Survey,

"The Survey's authors themselves tell us directly how they intended their work to be used. Nothing in their statement of purpose mentions or even hints at the Survey being used to determine which buildings are worth saving and which not. Here is a complete copy of that brief Statement:

Statement of Purpose

The Survey was originally suggested in 1980 by Ms. Margret Price on behalf of a proposed group called North Beach Merchants and Professionals. The concern was that "North Beach" was disappearing from City maps; that this area of the City, with it's "wonderful urban fabric" (architectural historian Randolph Delehanty) had never been examined and documented; and the contributions of Italian-Americans should be acknowledged through examination of their traditional geographic location. The purpose was furthermore to define the area known as North Beach, as opposed to Russian or Telegraph Hills. A non-profit California corporation, separate

from the Merchants, was organized to administer the grant funds and direct the survey. The survey period was January 1, 1981 through June 30, 1982. "

The complete Draft Comments on the Survey, and I apologize for not having a more finished version prepared for this Board package.

In addition, I would like to respond to the applicant / Permit Holder's remarks at the hearings about my personal motives for objecting to a garage at 20 Nobles Alley.

I am a preservationist. I work closely with others who are like-minded in the neighborhood-- and many who are aren't. The article I wrote for the San Francisco Chronicle (2003, attached) resulted in the referenced property being purchased by the City and turned into a library-- the location of the City's newest, the North Beach Library.

I also was commented upon by the applicant / permit-holder at the hearing on July 12 that I was somehow involved in her and her husband being cited by the City for violating the short-term rental code. I had nothing to do with reporting that, and I did not even know it was happening.

An attached letter from Omar Masry, the lead attorney for the Short Term Rental Enforcement confirms my un-involvement with this matter.

In conclusion, I think it important that whomever buys a building in our increasingly attractive and desired City plays by the rules. That is all this matter is about. Without the rules, including the Planning Code, the City will cease to function in a way that is forward-looking, benevolent and just.

Sincerely,

Marc Bruno
415-434-1528

Problems with North Beach Survey
marc bruno 09.07.17 DRAFT COMMENTS

Of the eight separate addresses in Nobles Alley, each and every Chinese-owned property surveyed in 1982 is unlisted. Of those Chinese-owned buildings two of them, 6 - 8 Nobles and 18 - 20 Nobles, clearly fall within the parameters of "contributory" set forth by the Survey's authors.

More problematic still, one of the listed "contributory" buildings, 21 - 23- 25 Nobles, clearly falls *outside* the parameters set forth by the Survey's authors.

Here is a screen shot of the listings in the 1982 Survey:

interviewers who did all the house-by-house ground-work for the survey shied away from Chinese-owned buildings because of language difficulties. Equally likely is that Chinese owners were resistant to their buildings being given a "special status" and choose not to participate.

In regards to the possibility of cultural bias, it is interesting to note that of the 16 participating researchers in the 1982 Survey, only one has a Chinese surname. Of the seven field workers (students) who actually walked the streets and determined which buildings should be included, *none* have a Chinese surname

Here is an example of two other buildings in Nobles Alley that illustrates the deficiencies of the North Beach Survey:

(1) 6 - 8 Nobles on the north side of the alley is a building owned by Chinese owners and *not listed* in the Survey. This building remains one of the best - preserved and least altered buildings in the alley, if not in the entire historic district. The oddly narrow garage door was used as a storage unit, and that door plus all the apertures on the facade are still there today.

A 1958 photo from the Assessor's Office, from the Recorder Assessor Office indicates that the building had not undergone any post- earthquake changes.

(2) 21 - 23- 25 Nobles on the south side of the street is not even an independent property, nor was it at the time of the Survey in 1982. As indicated on a 1949 Sanborn Map, and confirmed by current property records, the correct address for the building is 460 - 462 Union Street. This address is not listed in the North Beach Survey. The addition of a modern garage and an overhanging bay window on the Union Street side of the building show that drastic revisions were made to the building in the 1950 and '60s.

The Planning Code neither encourages nor allows categorization of buildings as historically significant based on an in-law unit. Why was 21 - 23 - 25 included in the Survey at all?

There is an additional problem with the inclusion of 21 - 23 - 25 Nobles. The window treatments at 21 - 23 - 25 Nobles, the backside of 460 - 462 Union, are uninterrupted casements far larger in width than anything in the entire historic district. It is simply not the way windows were made at the time of the building's construction in 1908.

2 Noble's Alley
15 Noble's Alley
21-25 Noble's Alley

Grant Avenue District
Grant Avenue District
Grant Avenue District

A complete listing of the eight addresses in Nobles Alley, with the Survey's designation of "contributory," as noted:

North side of alley:

Nobles # 2, contributory (a non-Chinese owner) and *should be so listed*;

Nobles # 6 - 8 is **non-contributory** (a Chinese owner) and *should be listed* (see notes on this building below);

Nobles # 12 - 16 is **non-contributory** (a non-Chinese owner) and *should not be listed*;

Nobles # 18 - 20 is **non-contributory** (a Chinese owner) and *should be listed* (see notes on this building below).

South side of alley:

Nobles # 21 - 23 - 25 is listed (a non-Chinese owner) and *should not be listed* (see notes on this building below);

Nobles # 15 is listed (non-Chinese) and I do not yet know enough about the circumstance of this listing to determine whether or not it is properly listed;

Nobles # 7 - 9 is **non-contributory** (a non-Chinese owner) and I do not yet know enough about the circumstance of this listing to determine whether or not it is properly listed;

Nobles # 5 is **non-contributory** (a non-Chinese owner) and I do not yet know enough about the circumstance of this listing to determine whether or not it is properly listed.

(It is important to note that Survey authors never designated a building "non-contributory," and this might be part of the reason that certain buildings in Nobles were overlooked. Once student-surveyors decided that a building evinced major changes, or was somehow inaccessible, none of the Survey's three "lead authors" re-examined the building.)

Of the eight buildings listed in the 1982 Survey, three markedly contradict the criteria set forth by the authors themselves, and two others are questionable. One of three that openly contradict the criteria of what makes something "contributory" is 20 Nobles.

20 Nobles should have been included as a contributory building in the 1982 Survey, but wasn't.

The reason for this is unknown. It is possible cultural bias directed the student

Presuming Survey researchers had access to the Sanborn map and Recorder-Assessor photos we have today, is it possible that the "contributory list" was never intended to be used for purposes of deciding which buildings were worth preserving and which not?

The Survey's authors themselves tell us directly how they intended their work to be used. Nothing in their statement mentions or hints at preservation.

Statement of Purpose

The Survey was originally suggested in 1980 by Ms. Margret Price on behalf of a proposed group called North Beach Merchants and Professionals. The concern was that "North Beach" was disappearing from City maps; that this area of the City, with its "wonderful urban fabric" (architectural historian Randolph Delehanty) had never been examined and documented; and the contributions of Italian-Americans should be acknowledged through examination of their traditional geographic location. The purpose was furthermore to define the area known as North Beach, as opposed to Russian or Telegraph Hills. A non-profit California corporation, separate from the Merchants, was organized to administer the grant funds and direct the survey. The survey period was January 1, 1981 through June 30, 1982.

This is the entire statement of purpose of the authors of the North Beach Survey.

(3) 20 Nobles Alley

#20 Nobles Alley (Chinese owned and *not* included as part of the Survey) is a perfectly preserved building with a unique double vertical structure on a single lot. While it is not clear why two separate buildings were built at 20 Nobles, the rear having only a narrow passage for entry from the public right of way, it seems the original owner might have used the rear building to support his burgeoning alcohol business elsewhere in the neighborhood.

This man, "Arturo Elias," was of Greek and Spanish origin and is noted, in part, for having owned one of the most notorious bars and flop-houses in the Barbary Coast - and for having been arrested on numerous occasions for using strong-arm tactics to collect the rents.

In 1982, at the time of the North Beach Survey, #20 Nobles Alley was the same building built and lived in by Arturo Elias, the only difference being the addition of a stucco treatment to the building's wood facade by the "Yee Family," who purchased #20 Nobles in 1958 and sold it in 1997/ 1998.

In my conversations with Albert Yee, a member of the family who, with his elder brother, took charge of the building upon their mother's death in 1993, I was told

the original wood facade here at #20 Nobles was not removed or destroyed but, rather, encased in a chicken-wire-and-lathe construction upon which a plaster frontage was applied.

In every respect, the structure at 20 Nobles exceeds the requirements of "historic" designated by the City's residential design guidelines, which read, in part,

"The term *historic building* includes all buildings designated as City Landmarks or located in historic districts, identified on the National Register of Historic Places, and all buildings rated in the 1976 Architectural Survey of Significant Buildings by the Department of City Planning. Alteration of an historic building therefore requires review by the City's Landmarks Preservation Advisory Board, and the application of national guidelines intended to preserve the historic character of buildings."

Residential Design Guidelines San Francisco Department of City Planning, REF 720.9794 Sa52r 1989b (November, 1989)

The application of a stucco frontage in 1958 does not under any architectural or preservationist guideline *automatically* disqualify a building from being considered a contributor to the historic district.

Moreover, as noted in the City's residential guidelines, the building's presence within the North Beach Telegraph Hill Historic District establishes a presumption of its historicity, the burden of which requires any applicant to remove that presumption.

20 Nobles has no structural, historic or architectural imperfections from today looking backwards to the day of its birth, an elegant and pure edifice residing in the near-geographic center of one of the City's and, indeed, nation's most pre-eminent Historic Districts.

Appendix 1 Reply of Planning Department to Questions Concerning North Beach Survey:

***** Marc Bruno to Planner Eiliesh Tuffy *****

August 8, 2017

Two Questions Concerning North Beach Survey

Dear Eiliesh-

Welcome back to the department. I understand you recently were on vacation.

Thank you for your note, re-printed below, which answers some but not all of the questions I posed regarding the failure of the North Beach Survey to include 20 Nobles as a contributory building. (One of the things you kindly did was to send me a copy of the North Beach Survey, a document written by Anne Bloomfield and others-- including students from San Francisco State.)

The two questions I left on your machine-- in response to the conclusions you draw in the attached letter--- are these:

- (1) How can the Planning Department draw conclusions about the building prior to submission of the historical documents required to be submitted by the applicant?
- (2) If the applicant has submitted such documents, may I view them?

Thank you for your time and your quick response-- though only partial-- to my prior request.

Yours,

Marc Bruno
15 Nobles Alley
San Francisco CA 94133
415-434-1528

Tuffy, Eiliesh (CPC) <eiliesh.tuffy@sfgov.org>
To Sanchez, Scott (CPC) Marc Bruno Silva, Christine (CPC)
CC Lee, Matthew (CAT) Young, Victor Atijera, Evamarie (CPC) CPC-Record Request
August 8, 2017 : 4:13 p.m.

Dear Marc,

Attached please find a .pdf file (27MB) of the 1982 North Beach Survey, which Anne Bloomfield participated in as lead researcher.

While district boundaries were identified for the Upper Grant Historic District that encompass Nobles Alley, 20 Nobles Alley was not cited as a contributing historic resource.
Only 3 building on Noble Alley were listed for inclusion in the district: #2, #15, and #21-25.

The reason why 20 Nobles appears in the city's Property Information Map with an Historic Resource Status of "A" is due to the presence of the historic district overlay --- to alert planners of the presence of a district. This is to ensure exterior alterations to non-contributors do not destroy the integrity of the overall district. In general, CEQA-Historical review allows for the insertion of a garage door on a non-contributing building if the immediate surrounding context supports that type of alteration, if the door is kept to the minimum dimensions required, and it is painted out to match the exterior building siding and minimize its visual prominence. Based on those criteria, a single garage door at 20 Nobles would be acceptable to Preservation strictly from a CEQA-Historical standpoint.

I hope this is helpful in your review.

Sincerely,

Eiliesh Tuffy

Planner/Preservation Specialist

Direct: 415-575-9191 | Fax: 415-558-6409

<http://www.sf-planning.org>

**III. Summary of Appeal of Categorical Exemption,
20 Nobles Alley**

**Summary of Appeal of Categorical Exemption at 20 Nobles Alley,
Proposed Building of a New or Legalized Garage, the Current,
Unused Garage Never Having Been Permitted.**

17 neighbors-- business owners and residents who live and work near 20 Nobles Alley-- object to and appeal the designation of the 2-building 3-unit site as "Categorically Exempt."

The effect of a Categorical Exemption at 20 Nobles is to allow an illegal garage currently located there-- a garage which, being poorly designed, has never been used-- to be legalized and modified-for-use, the first and only such garage in Nobles Alley, the first such garage in the 1500 block of Grant Avenue where Nobles is located, and, indeed, the first and only garage in the four blocks from Grant-at-Columbus to Grant-at-Filbert.

By adding this garage to the four block commercial corridor in the heart of the North Beach Historic District, the proposed project represents "substantial change that may effect the environment," a change that requires review under the California Environmental Quality Act.

"Categorical Exemption" means no review whatsoever. We ask instead for a Mitigated Negative Declaration, the only review that will give those of us who live here-- and the City at-large-- a chance to protect this unique urban oasis, this pedestrian friendly and graceful alley.

No person or group supports this project. The only advocates are the permit-holders, whose primary residence is in Mill Valley. Just months after purchasing 20 Nobles, they were found guilty of illegal short-term rentals there. Their intentions are clear; in equity they would be said to have "unclean hands," undermining the relief they now seek from the City. Had they not been exposed, they still would be advertising on Airbnb today. To reward them with a garage subverts and undercuts City housing policy, and does so based on a misapplication of the law.

City Housing Policies subverted by Legalizing a Garage at 20 Nobles

In 2010, our City's elected officials by unanimous vote implemented Planning Code Section 249.24, prohibiting new garages in alleyways in the North Beach Special Use District. The legislation included an express statement of City policy, to wit:

"San Francisco Planning Code Section 249.49. **Purposes.** To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert residential buildings from rental buildings to tenancies-in-common."

To regulate. To decrease pollution. To protect rental units. What "narrow public right of way" in the City is narrower than the sidewalks of Nobles Alley? You will not find them. Sidewalks traversed daily by residents who enter and exit 45 units accessible only via pedestrian-friendly Nobles Alley.

Section 249.49 is not opposed to TICs *per se*. Conversions mean the loss of rentals. This is the law's goal: To preserve residential rentals available to all San Franciscans, regardless of means. It is recognized that Airbnb also has a detrimental effect on rentals. The City cited the permit-holders at 20 Nobles for engaging in Airbnb rentals illegally. To allow a garage there *undoes* what elected officials chose to *do*. One more reason we oppose a Categorical Exemption and demand a more meaningful environmental review.

CEQA cannot be used to undermine local Environmental Law

CEQA does not endorse circumventing local environmental law. That is particularly true when, as here, elected officials in their legislation expressly include the reasons for their policies.

The illegal garage at 20 Nobles damages an "A" level historic resource, and, by virtue of being illegal, sets a precedent jeopardizing the Historic District. This is another reason that adding a garage at 20 Nobles would violate CEQA, because Section 15300.2 of the Guidelines provides that a "project shall not be exempt from environmental review if it may cause a substantial adverse change in the significance of a historic resource or where it may contribute to a cumulative impact on a historic district."

We should not give permit-holders a Get Out of Jail Card when, in their own words, they admit, "Nothing prevents us walking a few blocks to our car." (They currently rent a garage less than one block away.) There are no public benefits to adding a garage in Nobles, and there is no private necessity. We ask you to overturn the Categorical Exemption so that whatever is done here adheres to City housing policy, conforms to Section 249.49 and enhances the environmental balance and walkability of the North Beach Historic District. Thank you.

**IV. Two Supporting Documents from Planning
Department, Summary of Appeal of Categorical
Exemption, 20 Nobles Alley**



SAN FRANCISCO PLANNING DEPARTMENT

Notice of Planning Department Disapproval

May 8, 2017

Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

<p>RE: 20 Nobles Alley 0104/025 2016.08.09.4528 Telegraph Hill-North Beach Residential SUD</p>	<p>(Address of Permit Work) (Assessor's Block/Lot) (Building Permit Application Number) (Special Use District)</p>
--	--

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Building Permit Application #2016.08.09.4528 has been received by the Planning Department and assigned to planner Eiliesh Tuffy. Eiliesh has completed review of the application for corrective work to address Notice of Violation #201620916. The scope of work for the project as stated on the application is: "garage door correction per NOV 201620916- seal unpermitted garage door, relocate legal garage door to center of ground floor."

Please be advised that the Planning Department has disapproved Building Permit Application No. 2016.08.09.4528. This notice is to alert the project sponsor of the process of review for the submitted application and to convey the Department's findings that, due to restrictions enacted with the adoption of the Telegraph Hill-North Beach Residential Special Use District in 2010, the Planning Department cannot approve the proposed relocation of the existing garage door at the front façade of the existing residential structure.

CEQA - Historical Review

The North Beach neighborhood was surveyed in 1982 to identify cultural resources of significance in the area. The findings of the North Beach survey, which was adopted by the Board of Supervisors in 1999, included areas within the neighborhood that qualified for designation in the California Register of Historical Resources. The subject property at 20 Nobles Alley is located within the boundaries of the Upper Grant Avenue Historic District, but was not found to be a contributing building to the district at the time of the survey due to its extensive alterations. Visible alterations to "Non-Contributing" buildings are typically reviewed for their general compatibility with the surrounding district.

The Historical Review of the design proposal determined that the existing two-garage door design could not be supported because it would not conform to Sec. 144 of the Planning Code, which limits garage openings to no more than one-third of the width of the ground story along the front lot line. However, because some historic buildings in the historic district have single garage door entrances of a modest scale, the removal of the second unpermitted garage door and restoration of a prior man-door and window opening was reviewed as a means of returning the ground floor design to a more historic appearance. This determination was predicated on the sponsor's ability to provide evidence of the single garage door's legal installation.

Sent to:
Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

May 8, 2017
2016.08.09.4528
20 Nobles Alley

Building Permit Review

Building permits and plans were reviewed to determine a record of work at the property. Plans associated with permit applications (nos. 9723784 and 9723786) filed in 1997 to remove kitchens, remove interior, non-load bearing wall and combine units 20 and 20A into one unit," show a single garage opening. However, the creation of a ground floor garage was not part of the approved project scope for that permit or any other permit on file with the Department of Building Inspection. Similarly, there are no permits on file that approved the creation of a second garage door opening at the subject property. Lacking any evidence of the legal construction of the ground floor garage doors, the proposal to "seal unpermitted garage door, relocate legal garage door to center of ground floor" was reviewed as a "new" garage installation in an existing residential structure.

Planning Code Review

The Planning Code Review determined that legalization of either a 2-door garage or a 1-door garage at the subject property would not meet the requirements of Section 144 and Section 249.49 of the Planning Code, with the latter code section preventing the installation of new garages in existing residential structures.

SEC. 144 - STREET FRONTAGES IN RH, RTO, RTO-M, AND RM DISTRICTS.

Section 144(b)(1) Entrances to Off-Street Parking

Except as otherwise provided herein, in the case of every dwelling in such districts no more than one-third of the width of the ground story along the front lot line, or along a street side lot line, or along a building wall that is set back from any such lot line, shall be devoted to entrances to off-street parking, except that in no event shall a lot be limited by this requirement to a single such entrance of less than ten feet in width, or to a single such entrance of less than 8 feet in RTO and RTO-M districts. In addition, no entrance to off-street parking on any lot shall be wider than 20 feet, and where two or more separate entrances are provided there shall be a minimum separation between such entrances of six feet. Lots in RTO and RTO-M districts are limited to a total of 20 feet per block frontage devoted to entrances to off-street parking. Street-facing garage structures and garage doors may not extend closer to the street than a primary building facade unless the garage structure and garage door are consistent with the features listed in Section 136 of this Code. Entrances to off-street parking shall be located at least six feet from a lot corner located at the intersection of two public rights-of-way.

SEC. 249.49. TELEGRAPH HILL - NORTH BEACH RESIDENTIAL SPECIAL USE DISTRICT.

Section 249.49(a) Purposes.

To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert existing residential buildings from rental buildings to tenancies-in-common.

Section 249.49(c)(2)(4) Installation of a Parking Garage

In approving installation of the garage, the Commission must find that(4) the garage would not front on a public right-of-way narrower than 41 feet.

Sent to:
Dudley and Eustace de Saint Phalle
20 Nobles Alley
San Francisco, CA 94133

May 8, 2017
2016.08.09.4528
20 Nobles Alley

The project proposes to install a new garage door at the front façade of an existing residential building located on an alley narrower than 41 feet in the Telegraph Hill-North Beach Residential Special Use District, Therefore, the Planning Department cannot approve permit application #2016.08.09.4528 to seal unpermitted garage door, relocate legal garage door to center of ground floor. Permit application #2016.08.09.4528 will be returned to the Department of Building Inspection for cancellation.

Please note that, due to the Notice of Violation on the property, the Enforcement case for this property will remain active until the project sponsor submits an application to abate the violation. Please contact the assigned Enforcement staff planner, Chaska Berger, by phone at 415-575-9188 or by email at chaska.berger@sfgov.org regarding timeframes for submitting materials to address the Notice of Violation.

Planning Department & Planning Commission Denials.

Project sponsors seeking to appeal the denial of a permit application by the Planning Department or Commission may not file an appeal until the Department of Building Inspection (DBI) issues the Notice of Disapproval for the project. The appeal must be filed within 15 calendar days from the date of DBI's Notice of Disapproval. A copy of the following documents must be submitted to Board staff: (a) the building permit application that was denied, with notation by Planning Staff on the back; and (b) the Notice of Disapproval that was issued by DBI.

For further information regarding how to appeal the disapproval of this building permit application, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

Eliesh Tuffy
Current Planning Division

Cc: Scott Sanchez, Zoning Administrator
Chaska Berger, Zoning and Compliance
Tom C. Hui, Director of DBI

[Web Site: <http://planning.sanfranciscocode.org/2/249.49/>]

San Francisco Planning Code § 249.49.

TELEGRAPH HILL – NORTH BEACH RESIDENTIAL SPECIAL USE DISTRICT

a.

Purposes. To regulate off-street parking and the installation of garages in existing residential structures in order to ensure that they do not significantly increase the level of automobile traffic, increase pollution, or impair pedestrian use on narrow public rights-of-way in the District; and to prevent the ability to add parking from providing an incentive to convert existing residential buildings from rental buildings to tenancies-in-common.

b.

Applicability. The provisions of this Special Use District shall apply to the RH and RM zoned parcels within the area bounded by Bay Street on the north, The Embarcadero and Sansome Street on the east, Broadway on the South, and Columbus Avenue on the west, as shown on Sectional Map SU01 of the Zoning Map.

c.

Controls.

1.

Number of Off-Street Residential Parking Spaces. Up to three cars for each four dwelling units is a Permitted use; up to one car for each dwelling unit requires a Conditional use, subject to the criteria and procedures of Section 151.1(f); above one car for each dwelling unit is Not Permitted.

2.

Installation of a Parking Garage. Installation of a garage in an existing residential building of four or more units requires a mandatory discretionary review hearing by the Planning Commission; Section 311 notice is required for a building of less

than four units. In approving installation of the garage, the Commission shall find that: (1) the proposed garage opening/addition of off-street parking will not cause the "removal" or "conversion of residential unit," as those terms are defined in Section 317 of this Code; (2) the proposed garage opening/addition of off-street parking will not substantially decrease the livability of a dwelling unit without increasing the floor area in a commensurate amount; (3) the building has not had two or more "no-fault" evictions, as defined in 37.9(a)(7)-(13) of the San Francisco Administrative Code, with each eviction associated with a separate unit(s) within the past ten years, (4) the garage would not front on a public right-of-way narrower than 41 feet, and (5) the proposed garage/addition of off-street parking installation is consistent with the Priority Policies of Section 101.1 of this Code.

Prior to the Planning Commission hearing, or prior to issuance of notification under Section 311(c)(2) of this Code, the Planning Department shall require a signed affidavit by the project sponsor attesting to (1), (2), and (3) above, which the Department shall independently verify. The Department shall also have made a determination that the project complies with (4) and (5) above.

AMENDMENT HISTORY

History

(Added by Ord. 77-10, File No. 091165, App. 4/16/2010;
amended by Ord. 176-12 , File No. 120472, App. 8/7/2012, Eff.
9/6/2012)

New division (b) added and former division (b) redesignated as
current division (c); Ord. 176-12 , Eff. 9/6/2012.

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Comments

Section 144 First Appears in the Planning Code in April, 2008

07/10/17

Brent -

The date is found in the final line of this reprint, below, of the relevant section of the San Francisco Planning Code. It reads: **Supp. No. 16, April 2008,**

This date tells us when Section 144 was first added to a printed edition of the Code, but it does not necessarily tell us when this section was first enacted. Passage might have occurred the year before, in 2007. I will find out what the answer is when I go to the Planning Department tomorrow morning.

FYI- Below is a reprint of Section 144 from the "Internet Archive Reprint of Part I of the San Francisco Planning Code." You may find the reprint on-line here:

https://archive.org/stream/gov.ca.sf.planning.01/ca_sf_planning_01_djvu.txt

The reference to Section 144 in the Appeals Board file may be found in the Planning Department's Disapproval letter, as you know. Here is a reprint of that part of the letter first referring to Section 144:

"The Historical Review of the design proposal determined that the existing two-car garage door design could not be supported because it would not conform to Sec. 144 of the San Francisco Planning Code, which limits garage openings to no more than one-third of the width of the ground story along the front line."

(Notice of Planning Department Disapproval, 20 Nobles P. 1)

Yours,

Marc

Here's the complete section from the Internet Archive, with the referenced first printing date, below:

SEC. 144. TREATMENT OF GROUND STORY ON STREET FRONTAGES, RH-2, RH-3, RTO, RM-1 AND RM-2 DISTRICTS.

(a) General. This Section is enacted to assure that in RH-2, RH-3, RM-1, RM-2, and RTO Districts the ground story of dwellings as viewed from the street is compatible

Exhibit 13

13

RE: Board of Supervisors File No. 171053

BOS Legislation, (BOS) <bos.legislation@sfgov.org>

To marcabruno@yahoo.com dudley6@mac.com
CC Givner, Jon (CAT) Stacy, Kate (CAT) Jensen, Kristen (CAT) Rahaim, John (CPC) Sanchez, Scott (CPC) Gibson, Lisa (CPC) Sheyner, Tania (CPC) Starr, Aaron (CPC) Rodgers, AnMarie (CPC) Tuffy, Eiliesh (CPC) Goldstein, Cynthia (BOA) BOS-Supervisors BOS-Legislative Aides Calvillo, Angela (BOS) Somera, Alisa (BOS) BOS Legislation, (BOS)

September 29, 2017

Good afternoon,

The Office of the Clerk of the Board has scheduled an appeal hearing for Special Order before the Board of Supervisors on November 14, 2017, at 3:00 p.m. Please find linked below a letter of appeal filed for the proposed project at 20 Nobles Alley, as well as direct links to the Planning Department's timely filing determination, and an informational letter from the Clerk of the Board.

Exemption Determination Appeal Letter - September 27, 2017

Planning Department Memo - September 28, 2017

Clerk of the Board Letter - September 29, 2017

I invite you to review the entire matter on our Legislative Research Center by following the link below:

Board of Supervisors File No. 171053

Regards,

Lisa Lew - Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
P 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

Exhibit 14



All Marc Bruno, search your mailbox

Search Mail Search Web

Compose

Search results Archive Move Delete Spam More

- Add Gmail, Outlook, AOL and more
- Inbox (9999+)
- Drafts (1701)
- Sent
- Archive
- Spam (519)
- Trash (43)
- Smart Views
 - Important
 - Unread
 - Starred
 - People
 - Social
 - Shopping
 - Travel
 - Finance
 - Dave and Natasha

Board Motion No. M17-175

Jalipa, Brent (BOS) <brent.jalipa@sfgov.org> To: Marc Bruno

Nov 16 at 12:29 PM

This message contains blocked images. Show Images Change this setting

Good afternoon Marc,

As discussed, please find the attached Motion No. M17-175 - Affirming the Categorical Exemption Determination - 20 Nobles Alley. For your reference, the Motion to affirm the Planning Department's determination is found under File No. 171054, and as you know the Hearing file is File No. 171053.

Regards, Brent Jalipa Legislative Clerk Board of Supervisors - Clerk's Office 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco, CA 94102 (415) 554-7712 | Fax: (415) 554-5163 brent.jalipa@sfgov.org | www.sfbos.org

Click here to complete a Board of Supervisors Customer Service Satisfaction form

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

Exhibit 15

1 [Affirming the Categorical Exemption Determination - 20 Nobles Alley]

2
3 **Motion affirming the determination by the Planning Department that a proposed project**
4 **at 20 Nobles Alley is categorically exempt from further environmental review.**

5
6 WHEREAS, On September 8, 2017, the Planning Department determined that the
7 proposed project located 20 Nobles Alley ("Project") is exempt from environmental review
8 under the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and San
9 Francisco Administrative Code, Chapter 31; and

10 WHEREAS, The proposed Project involves the retention and legalization of one
11 unpermitted garage door and the removal of a second unpermitted garage door, associated
12 wall vents, and an entry hall window; the stucco wall finish and remaining rough openings on
13 the ground floor would be restored to a prior appearance, based on pictorial evidence of the
14 subject property; and

15 WHEREAS, On May 8, 2017, the Planning Department issued a Notice of Planning
16 Department Disapproval for building permit #201608094528 for the Project, proposing to
17 remove one of two existing garage doors on the building's visible front elevation; and

18 WHEREAS, On July 12, 2017, at the request of the project sponsor, the Board of
19 Appeals reviewed the Planning Department disapproval of building permit #201608094528,
20 continued the hearing to September 13, 2017, and requested that the project sponsor produce
21 a set of plans for delivery to the Board of Appeals and the Planning Department; and

22 WHEREAS, The Board of Appeals also requested that Planning Department staff
23 conduct CEQA review of the Project in advance of the September 13, 2017, hearing; and

24 WHEREAS, On September 7, 2017, Dudley and Eustace de Saint Phalle (project
25 sponsor), filed an environmental evaluation application for the proposed Project; and

1 WHEREAS, On September 8, 2017, the Planning Department determined that the
2 Project is exempt from environmental review under Class 1 of the CEQA Guidelines (14 Cal.
3 Code Reg. Section 15301), which provides an exemption for existing facilities; and

4 WHEREAS, On September 13, 2017, at the continuation of the building permit appeal
5 hearing, the Board of Appeals overturned the Planning Department's prior decision and
6 approved the Project as proposed on the plan set dated August 21, 2017; and

7 WHEREAS, On September 27, 2017, Marc Bruno ("Appellant"), appealed the
8 exemption determination; and

9 WHEREAS, The Planning Department's Environmental Review Officer, by
10 memorandum to the Clerk of the Board dated September 28, 2017, determined that the
11 appeal was timely filed; and

12 WHEREAS, On November 14, 2017, this Board held a duly noticed public hearing to
13 consider the appeal of the exemption determination filed by Appellant and, following the public
14 hearing, affirmed the exemption determination; and

15 WHEREAS, In reviewing the appeal of the exemption determination, this Board
16 reviewed and considered the exemption determination, the appeal letter, the responses to the
17 appeal documents that the Planning Department prepared, the other written records before
18 the Board of Supervisors and all of the public testimony made in support of and opposed to
19 the exemption determination appeal; and

20 WHEREAS, Following the conclusion of the public hearing, the Board of Supervisors
21 affirmed the exemption determination for the Project based on the written record before the
22 Board of Supervisors as well as all of the testimony at the public hearing in support of and
23 opposed to the appeal; and

24 WHEREAS, The written record and oral testimony in support of and opposed to the
25 appeal and deliberation of the oral and written testimony at the public hearing before the

1 Board of Supervisors by all parties and the public in support of and opposed to the appeal of
2 the exemption determination is in the Clerk of the Board of Supervisors File No. 171053, and
3 is incorporated in this motion as though set forth in its entirety; now, therefore, be it

4 MOVED, That the Board of Supervisors hereby adopts as its own and incorporates by
5 reference in this motion, as though fully set forth, the exemption determination; and, be it

6 FURTHER MOVED, That the Board of Supervisors finds that based on the whole
7 record before it there are no substantial project changes, no substantial changes in project
8 circumstances, and no new information of substantial importance that would change the
9 conclusions set forth in the exemption determination by the Planning Department that the
10 proposed Project is exempt from environmental review; and, be it

11 FURTHER MOVED, That after carefully considering the appeal of the exemption
12 determination, including the written information submitted to the Board of Supervisors and the
13 public testimony presented to the Board of Supervisors at the hearing on the exemption
14 determination, this Board concludes that the Project qualifies for an exemption determination
15 under CEQA.

16
17
18 n:\land\as2017\0400241\01232669.docx



City and County of San Francisco
Tails
Motion: M17-175

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 171054

Date Passed: November 14, 2017

Motion affirming the determination by the Planning Department that a proposed project at 20 Nobles Alley is categorically exempt from further environmental review.

November 14, 2017 Board of Supervisors - NOT CONTINUED

Ayes: 4 - Fewer, Kim, Ronen and Yee

Noes: 5 - Breed, Farrell, Safai, Sheehy and Tang

Excused: 2 - Cohen and Peskin

November 14, 2017 Board of Supervisors - APPROVED

Ayes: 6 - Breed, Farrell, Safai, Sheehy, Tang and Yee

Noes: 3 - Fewer, Kim and Ronen

Excused: 2 - Cohen and Peskin

File No. 171054

I hereby certify that the foregoing Motion was APPROVED on 11/14/2017 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

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BY US MAIL and PERSONAL DELIVERY

Marc Bruno
15 Nobles Alley
San Francisco CA 94133

marcabruno@yahoo.com
415-434-1528

December 12, 2017

TO:

Angela Calvillo, Clerk of the Board of Supervisors of the
City and County of San Francisco 1 Dr. Carlton B. Goodlett Place City Hall, Room 244
San Francisco, CA 94102-4689

Acting Mayor London Breed
City and County of San Francisco City Hall, Room 200
1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102

City and County Clerk
Office of the County Clerk
City and County of San Francisco City Hall, Room 168
1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4678

Angela Calvillo, Clerk of the Board of Supervisors of the
City and County of San Francisco 1 Dr. Carlton B. Goodlett Place City Hall, Room 244
San Francisco, CA 94102-4689

John Rahaim, Director of Planning
San Francisco Planning Department City and County of San Francisco
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Cynthia G. Goldstein, Executive Director
San Francisco Board of Appeals
1650 Mission Street, Suite 304
San Francisco, CA 94103-2479

Eustache and Dudley de St. Phalle
20 Nobles Alley
San Francisco, CA 94133

To: Acting Mayor London Breed, Clerk Calvillo, Director Rahaim, and President Wu, City and County of San Francisco et al.

Notice of Intent to File Suit Under the California Environmental Quality Act Regarding Board of Supervisors Motion M17-175 upholding a Categorical Exemption issued by the San Francisco Planning Department regarding Permit Application 201608094528 and 20 Nobles Alley, San Francisco.

Dear Mayor Lee, Chairman Nolan, Clerk Calvillo, Director Rahaim, and President Wu:

I am writing on behalf of myself and "Save North Beach" regarding the San Francisco Planning Department's decision to approve a new garage at 20 Nobles Alley (hereinafter, the "Project"). This decision conflicts with Planning Code 249.49 ("garages in the Telegraph Hill-North Beach Special Use District") and is contrary to many of the Department's own findings in this matter.

Please take notice that pursuant to Public Resources Code ("PRC") § 21167.5, Petitioner-Plaintiffs intend to file a Verified Petition for Peremptory Writ of Mandate and Complaint for Declaratory and Injunctive Relief ("Petition"), under the provisions of the California Environmental Quality Act ("CEQA"), PRC § 21000 et seq., against Respondents and Defendants the City and County of San Francisco, the Board of Supervisors of the City and County of San Francisco, the Board of Appeals of the City and County of San Francisco, the San Francisco Planning Department, Acting Mayor London Breed and the Real Parties in Interest, Eustache and Dudley St. Phalle (collectively, "Respondents") in the Superior Court for the County of San Francisco, challenging the November 14, 2017 decision of Respondent Board of Supervisors of the City and County of San Francisco's approval of the Project and issuance of a Notice of Exemption for the Project on the grounds that the Project is categorically exempt from CEQA.

The petition being filed will seek the following relief:

1. For a peremptory writ of mandate directing Respondents and Real Parties in Interest to set aside the Notice of Exemption for the Project at 20 Nobles Alley;
2. To vacate and set aside the approvals and resolutions adopting the Categorical Exemption for the Project and approving the Project;
3. To set aside any and all other actions approving or granting any permits, entitlements, or other approvals referring or related to the Project unless and until Respondents have prepared, circulated, and considered a legally adequate CEQA document prior to any subsequent action taken to approve the Project;
4. For a preliminary and permanent injunction staying the effect of Respondents' actions issuing a Notice of Exemption for the Project, approving any permits or other entitlements for the Project, pending the outcome of this proceeding;

To: Acting Mayor London Breed, Clerk Calvillo, Director Rahaim, and President Wu, City and County of San Francisco et al.

Notice of Intent to File Suit Under the California Environmental Quality Act Regarding Board of Supervisors Motion M17-175 upholding a Categorical Exemption issued by the San Francisco Planning Department regarding Permit Application 201608094528 and 20 Nobles Alley, San Francisco.

5. For a writ of mandate directing Respondents to suspend any and all activity in furtherance of the Project unless and until Respondents take all necessary steps to bring their actions into compliance with CEQA;
6. For a preliminary and permanent injunction directing Respondents and Real Parties in Interest, DOES 1 through 10, inclusive, and ROES 1 through 100, inclusive, to cease and refrain from engaging in any and all activities in furtherance of the Project unless and until Respondents take all necessary steps to bring their actions into compliance with CEQA;
7. For a preliminary and permanent injunction directing Respondents and Real Parties in Interest, DOES I through XX, inclusive, and ROES I through XX, inclusive, to cease and refrain from violating, aiding and abetting the violation of, or failing to enforce San Francisco Planning Code 249.49, which, among other prohibitions and purposes, specifically prohibits the building, installation or creation of a new garage in throughways under 41 feet in the Telegraph Hill-North Beach Historic District, which is where 20 Nobles Alley-- an 11 foot throughway-- is located;
8. For a writ of mandate and a declaratory judgment declaring Respondents' approval of the Board of Appeals decision to overturn the Disapproval of the Project by the Planning Department on May 8, 2017 to be null and void and contrary to the San Francisco Business Tax and Regulations Code, Article I, Sections 8 and 10, "Record Forwarded to Board of Appeals;"
9. For a writ of mandate and a declaratory judgment declaring Respondents' approval of the Board of Appeals decision to overturn the Disapproval of the Project by the Planning Department on May 8, 2017 to be null and void and contrary to law in violation of the San Francisco Ethics Code and the State Ethics Code (the Political Reform Act of 1974) because a member of the Board of Appeals, Mr. Richard Swig, failed to disclose that he has a significant business relationship with Project Sponsor;
10. For a writ of mandate and a declaratory judgment declaring Respondents' approval of the Board of Appeals decision to overturn the Disapproval of the Project by the Planning Department on May 8, 2017 to be null and void and contrary to law in violation of the San Francisco Ethics Code and the State Ethics Code (the Political Reform Act of 1974) because the Expediter for this Project, a City Officer and

To: Acting Mayor London Breed, Clerk Calvillo, Director Rahaim, and President Wu,
City and County of San Francisco et al.

**Notice of Intent to File Suit Under the California Environmental Quality Act
Regarding Board of Supervisors Motion M17-175 upholding a Categorical
Exemption issued by the San Francisco Planning Department regarding
Permit Application 201608094528 and 20 Nobles Alley, San Francisco.**

Member of the Board of Examiners, failed to disclose that he has a significant
business relationship with a Member of the Board of Appeals, Mr. Richard Swig;

11. For the costs of the suit;
12. An award of attorneys fees pursuant to Code of Civil Procedure 1021.5 and any
other applicable provisions of law;
13. For any other legal and equitable relief this court deems just and proper.

Petitioner-Plaintiff urges the City and County of San Francisco to rescind its Notice
and Approval of a Categorical Exemption for the Project, and also urges the City and
County to instead conduct an appropriate CEQA review, as required by law.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Bruno", with a long horizontal flourish extending to the right.

Marc Bruno
15 Nobles Alley
San Francisco, CA 94133